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Philosophical traditions impact on social policy: Comparing Poland and the United States

Abstract

Healthcare policies for people with developmental disabilities (PWDD) in both the United States of America and the Republic of Poland have evolved from socially conservative to liberal philosophies. One area that illustrates this process is the rise and fall of institutionalization. During the 18th and 19th Centuries, American families with PWDD were encouraged to relinquish the identified family member to state-run institutions, as early as diagnoses were made, in order to reduce burdens on the family and society. The charity model as understood in Judeo-Christian tradition in which sacrifice was emphasized and Greco-Roman tradition which advocated for more intelligent men to rule over others for the greater good of all will be explored. Industrialization, World War II (WWII) and the American Civil Rights Movement of the 20th Century all prompted new policies toward care for PWDD. Since the Civil Rights Movement, census numbers at state-run institutions for PWDD have been declining regularly. This movement finds validation in the liberalism of modern American philosophers. Poland has followed a similar path in a general, yet truncated way. As a Soviet satellite following WWII, Poland was compelled to adopt Soviet Union traditions toward PWDD. After the fall of the Soviet Union in 1989, Poland established policies enshrined in American and European law, such as person-centered care for PWDD. Both countries have dedicated national funds for supporting PWDD, such as America's Medicaid and Poland's National Disability Fund. As Poland and the United States continue to integrate services into more inclusive societies, national healthcare initiatives remain viable based on comparative studies. Quality of life indicators are offered in support of this deinstitutionalized, person-centered model.

Keywords: philosophy, Poland, United States, tradition, contemporary times

The Republic of Poland celebrated its twenty-fifth year of independence from the Soviet Union in 2014 (Obama, 2014, June 4). In the past quarter-century Poland has reemerged as a bastion of democratic ideals, according to Obama during Poland's

Constitution Day ceremony. A central principle in Poland's evolution, Obama claimed in that address, is justice. The president also affirmed that Poland and the United States of America share many central principles.

While Obama's speech was ceremonial in nature, the president does correctly identify justice as a major aspect of both Polish and American principles. In the United States this justice is codified mostly through English common law, although other European traditions prominent during Colonial times have influenced its evolution (Friedman, 2005, xiii–xv). According to Friedman (2005) this idea of justice continued in America even after its revolution from the British Empire. Friedman (2005) states that Britain's understanding of justice is unlike most of Europe which accepted Roman law. For Britain, and consequently America, the concept of judicial precedent allows for subjectivity in matters of justice, according to *West's Encyclopedia of American Law* (2008). Except in rare instances resulting in paradigm shifts; *West's Encyclopedia of American Law* (2008) states that the subjectivity of precedent typically maintains equality and predictability of justice. It is this predictability and evenhandedness that many people identify as American justice (Friedman, 2005, p. 104).

If traditional Anglo-American justice does not directly derive from Greco-Roman concepts of justice, there must be another source. Friedman (2005, p. 376) and others (Bassett, 1978, Seipp, 2006) have claimed that the concepts within English common law which continue in American law are found in Judeo-Christian texts. Bassett (1978, p. 1410) makes a further claim that English lawyers used Canon law as a template to create civil justice. Seipp (2006, p. 1418–1423) lists several examples of how both the American public and legislators pressure courts to uphold Judeo-Christian ethics.

Others (Veatch and Mason, 1987; Boyles, et al. 2009) claim that Greco-Roman and Judeo-Christian ideals are neither related nor compatible, although they recognize the existence of a contrary popular opinion. Veatch and Mason (1987) outline a history of ancient writers who mention Hippocrates or Galen. The authors found a clear attempt by the few ancient writers, both religious and civil, to separate those early physicians from Christian tradition (p. 88–90). Further, Veatch and Mason (1987) note that the twelfth century Council of Clermont banned any medical practice within monastery property (p. 87), which at the time was the main source of scholastic learning. Inherent in this prohibition is the separation of the humanistic study of medicine from the divine laws of God (Szasz, 1958).

Attitudes inform policy. As popular opinion in the United States supports a Judeo-Christian ideology, there is likely to be more policy based on those tenets. Only two decades after the pilgrims landed at Plymouth Rock, Massachusetts Bay Colony enacted a law regarding education, the *Old Deluder Satan Law* of 1647 (Boyles, et al. 2009, p. 33). The law was designed to protect children from „ye olde deluder” of the Judeo-Christian tradition, by enforcing a public education system (Anthony, 1987).

Policy clearly linked to Judeo-Christian ideology is still evident in the American justice system today. Rubens (2012) notes that the United States Supreme Court has directly referenced „Judeo-Christian” in both majority and dissenting opinions a total of fourteen times since 1961. Even the Defense of Marriage Act (DOMA) and the Personal Responsibility Act (PRA) which define a family unit for benefit purposes, were promoted, argued and celebrated as sacred tradition in all meanings of the word, according to Smith (2001). From DOMA and PRA to various Supreme Court decisions to the first Colonial law on education, a predictable personal responsibility has been enshrined in American law as Judeo-Christian in nature. A norm is clearly set, with implications of abnormality and even immorality set against those who did not comply with such lifestyles (Smith, 2014).

American laws relating to healthcare, especially healthcare for people with developmental disabilities (PWDD), have also been influenced by Judeo-Christian ideology. While the Greco-Roman tradition focused on physical health and social wellbeing, the Judeo-Christian model focused on suffering and service (Sultz and Young, 2006, p. 33). This focus on service lead to the Charity Model of healthcare found in such Biblical passages as, „And now abideth faith, hope, charity, these three; but the greatest of these is charity.” (1 Cor. 13:13, King James Version). Other philosophies would not elevate charity to the level of justice. For instance, in Wood’s translation of Kant (2002) *Groundwork for the Metaphysics of Morals* the philosopher separates and elevates justice above charity. The reason is that charity, unlike justice, is not a natural moral law and therefore superfluous (Kant, 2002, p. 5). This seems to follow the Greco-Roman ideal of balance. Yet in Sher’s edition of J.S. Mill (2001) *Utilitarianism* the philosopher recognizes the importance of being sympathetic and reducing suffering as part of justice (Mill, 2002). These two philosophies further illustrate a divide between British and European traditions.

America’s tradition of charity and personal responsibility is at the heart of its service for PWDD. There were no laws pertaining to PWDD during the Colonial period, but families as well as local communities informally supported PWDD (Grob, 1994, p. 16–17). By World War I, twenty-one states had official Boards of Charity and/or Corrections (Grob, p. 172) which managed residential institutions for PWDD. One of the reasons for a transfer of responsibility from family to state was the industrialization of America, which left fewer family members at home to care for PWDD (Grob, p. 114). Another motive Grob (1994) and others (Thompson, 1997; Shapiro, 1994) mention as a cause for these decisions throughout American history was to reduce the economic burden that a PWDD places on society. Thompson (1997) also notes that this shift in responsibility was a reversal in common law precedent as British landlords had been accountable for PWDD (p. 17–18). Franklin Roosevelt’s Social Security Act of 1935, which built off his New Deal projects of 1933, and was

followed by the GI Bill of 1944 were modern welfare programs (Skocpol, 2013, p. 70–72) which honor service with state issued care.

The concept of 'Judeo-Christian' first crystallized into an official term during World War II (WWII) as American military shorthand for "Jews and Christians" as well as a deliberate attempt to identify Nazi atrocities as a direct insult to American heritage (Moore, 1998). The overt Judeo-Christian concept was accepted by „Jews, Protestants and to a lesser extent, Catholics" (Moore, 1998, p. 33–34) in the years that followed WWII. Yet that is when the Cold War both broadened America's view of the 'Other' as well as intensified the nation's interest to outpace the production of foreign nations, marking a further shift in American policy. The McCarran Act of 1950 denied *habeas corpus* during an „internal security emergency", allowed for American concentration camps and exclusion based on ideology (Murray and Wunsch, 2002). Despite a failed veto from President Truman, McCarran would remain in effect until 1971. This was also a time when the label 'psychopathic personality' was applied to „homosexuals and other perverts" (Eskridge and Hunter, 1997) as part of medicine's attempt to identify them „for their own good" (p. 174). Eskridge and Hunter (1997) note that this advanced the treatment model of exclusion set in place through nineteenth century immigration policy in which „aliens who are idiots, imbeciles or morons; who are insane; who are epileptic or have a mental defect" were denied entry or deported (p. 177). These people, PWDD and others, were ostracized by legal action. The same is true for any exile, including Dostoevsky who was banished to Siberia in the mid 19th Century (Foldenyi, 2004). Dostoevsky was moved by the works of Hegel and incorporated them into *House of the Dead*, according to Foldenyi (2004), as the idea that even history forgets the outcast. Despite the warnings from presidents and philosophers, the isolation of society's vulnerable would continue.

Institutionalization of PWDD peaked in 1967, while institutionalization of people with mental health issues peaked in 1955 (Prouty and Lakin, 1997, p. 14). The daily average census of PWDD in large state-run institutions in 1967 was 194,650. Moore (2009) notes that in the years following WWII as America entered a new era, both a moral individualism as well as an interest in creating a 'technocracy' ruled by scientific wisdom was argued for and against at the same time Marxist principles were entering the national discussion from the counterculture (p. 6–7).

Kuhn (2012) wrote of this very crisis of conflicting ideas in relation to science. He also wrote that these paradigm shifts can cause revolutions (p. 90). The Civil Rights Movement of the 1960s incorporated many existing policies and expanded them in different ways, which Kuhn identifies as an aspect of a paradigm shift (p. 178). For instance, the state continued to serve PWDD but those services focused on community living instead of institutionalization.

The Civil Rights Movement recast the Judeo-Christian tradition as a liberal, if not socialist American ideology as Martin Luther King Jr. referenced Biblical precedent in his *Letter from a Birmingham Jail* and *I Have a Dream* speech. Liberal policies, such as Medicare and Medicaid, started at this time and expanded during the 1970s (Schulman, 2001, p. 29). Another shift was occurring within healthcare. The medical model, born from the charity model which focused on healing a suffering person was considered outdated. In the April 8 issue of *Science*, Engel (1977) calls for a „New Medical Model” which is known as the „Biopsychosocial Model” as it considers social, psychological, and behavioral dimensions of illness. This was an attempt to identify the individuality of a PWDD while treating a disease (Borrell-Carrió, et al. 2004).

The Americans with Disabilities Act (ADA) and Individuals with Disabilities Education Act (IDEA) both passed in 1991 which furthered the independence of PWDD. True to the American justice system of precedent, the ADA definition of disability depends on perception and subjective experience (Thompson, 1997). By 1997 the daily average census of PWDD in large state-run institutions had dropped to 56,161 (Anderson, et al., 1998).

This new American perspective which includes liberalism as well as moral individualism both extends welfare to PWDD and is more inclusive, promoting self-determinism among PWDD. By 2008 the daily average census of PWDD in large state-run institutions had dropped to 35,741 (Lakin, et al., 2009).

Poland travelled a different course through history, yet was also focused on democratic ideals. Poland’s kings, who in Kendall’s translation of Jean-Jacques Rousseau (1972) notes were elected by the nobility, were typically tolerant of diversity and enjoyed a favorable position with the Papacy. While it can be speculated that Polish nobles who were elected king would be more apt to endorse Judeo-Christian traditions (Davies, 1982, p. 197), nobles from other European Imperial houses that were elected to the Polish throne may have been less enthusiastic. Throughout history Poland was also subjected to the laws of neighboring empires through three partitions that occurred (Davies, 2001). Despite that, the tradition of a Roman Catholic identity has allowed Poland to separate itself from other Slavic nations (Russian/Orthodox; Ukrainians/Greek-Catholic) as well as other European neighbors (Germans/Protestants), giving it a unique position between East and West (Porter, 2001).

Instead of speculation as to what policies were followed under what dynastic and partition periods of Polish history, it is more productive (or at least practical) to evaluate policies of the Soviet Union imposed on the nation. Soviet constitutions have no privacy expectation (Sustein, 1992). The rights and obligations within applied to both government and citizen (Sustein, 1992). Poland’s constitution while under the control of the Soviet Union follows that rule (Davies, 2001, p. 33–36). The idea of all

working toward the goal of a utopian state can be considered Platonic, (Reinke, 1942, p. 35–36) which sets Poland on a Greco-Roman tradition. Marx was clear to distinguish between the Greco-Roman and Christian traditions in his own doctoral thesis, siding with the ancient Greeks (Marx, 1997).

Of course, Marxism may be considered as the main tradition of any given Soviet state. However, Marx does not address family law (Berman, 1946) which is essential when creating a new society. Therefore, the Bolsheviks revisited pre-revolutionary Russian law when adopting new rules for Soviet home life (Berman, 1946). However, that history law deals with inter-family relations, not intra-family relations (Berman, 1946) which was paternalistically ruled. As a result early drafts of Soviet family law attempt to keep freedoms at a maximum while leaving women and children unprotected (Goldman, 1993, p. 198–214). The concepts of justice and charity face us again, but in this model there is no room for charity. Nussbaum (2006) claims that PWDD and other vulnerable populations suffer from Rawls' Veil of Ignorance as the powerful in a society enforce their version of fairness (p. 286). Nussbaum points to the similarity in Locke, Kant and Rawls that only able-bodied men who can contribute to society are granted full membership of it (p. 50–51) as others strain the economy. Marx's understanding of a fully realized human being engaged in activity (p. 277) would exclude PWDD and many other groups as problematic. Statistically, PWDD represent approximately 2% of any population yet experience poorer health than the general population.

Orphanages as well as work-driven, self-sufficient children's colonies met the basic needs of youth who otherwise were vagrant (Goldman, 1993, p. 83–87). Families that cared for PWDD were not given additional resources by the state (p. 300). In the 1926 Family Code only the men of the household were recognized for their worth: if a family lost its men, a male in-law or an unrelated male could accept the role of *primak* (son-in-law; adopted) with land rights and familial power (p. 176).

Just as there was a drive for industrialization in America, so to was the Soviet Union interested in outpacing the production of foreign nations. And just as it had done in America, this focus on industrialization marked a shift in Soviet policy. Over the 1950s and 60s the Soviet Union attempted to make a more humane version of its laws (Berman, 1964, p. 929). Yet the reforms of Soviet Poland's Civil Code at the same time was contrary to Polish tradition (Grzybowski, 1961, p. 253). While there is a restructuring of Soviet justice, there is also a further moving away from Marx as family reenters the sphere of importance. By 1977, Article 53 of the Soviet constitution granted protection for families by the state (Bazyler, 1990).

One can argue that Lenin and successive Soviet leaders misapplied Marx. However, what is undeniable is that in Soviet Russia and all of the satellite states there were two

classes: the oppressive bureaucrats and the other citizens (Davies, 2001, p. 38–39). Although both Marx and Lenin were aware that socialist corruption could occur, Marx held a positive view of humankind whereas Lenin attempted to root out corruption by creating classes of workers based on integrity (Mayer, 1993). Lenin was especially concerned about the corruption of the ‘liberal bourgeois’ (p. 643–647) who would not follow socialist plans. This is an obvious departure from Marx and move toward Plato’s class system.

Both Plato and Aristotle considered PWDD to have slave mentalities (Albrecht, et al. 2001). Aristotle also considered women and children to be intellectually inferior as well (p. 269). As mentioned earlier in Nussbaum (2006) a Rawlsian Veil of Ignorance can keep a society neglectful of its most vulnerable members. Certainly Hippocrates and Galen were able to point to physical causes of disabilities, even though centuries later Martin Luther would demonize PWDD and insult clinicians who cared for them (Albrecht, et al. 2001, p. 270). Citizens would need to overcome societal prejudices, whether based in reason or faith, and accept PWDD as a member of that society. However, simply making a law will not guarantee people will internalize it (Cooter, 2000). A main factor when people internalize an aspect of justice, according to Cooter (2000) is when they recognize there will be increased opportunities for them (p. 1594). This opportunity occurred for NGOs in Poland after the fall of Communism.

Two-thousand Non-Government Organizations (NGOs) provided care for PWDD in Poland in 1988, a number that increased by 600 in 1989, „followed by over 1,000 in 1990, more than 2,000 in 1991 and more than 3,000 in 1992” (Wolowicz-Ruszkowska and Wapiennik-Kuczajaska, 2014, p. 86). During these first years of post-Communist freedom, NGOs lead the way in advocacy and service for PWDD (p. 86).

The new parliamentary government also responded, shifting from the Soviet style centralized model to a state and county system of services with mandatory health insurance and healthcare funded through the National Health Fund (NFZ) (Sagan, et al. 2011). Article 68 of Poland’s Constitution guarantees ‘special health care’ for ‘handicapped people’ (Otrebski, et al. 2003). Special education was provided for in The Act on School Education of 1991 and funded through typical channels (Pang and Richey, 2005). Another European funding stream Poland introduced in 1991 was a model from France, which taxed businesses who did not employ a certain percentage of PWDD (Abramowska, 2014).

May 2004 marked Poland’s ascension into the European Union (EU), and acceptance of more policies favoring disability rights (Holland, 2008). Based on research like Holland (2008) which found that the Polish state was unprepared to protect the independence of PWDD, partnerships were developed with other EU and American service providers. This advanced the advocacy movement in Poland (Abramowska,

2014). In September 2012 Poland joined other members of the EU in ratifying the Convention on the Rights of Persons with Disabilities (CRPD) (Wolowicz-Ruszkowska and Wapiennik-Kuczbajska, 2014, p. 88). This United Nations statement addresses the universal rights of PWDD to live fully inclusive lives with respect to healthcare, political life, personal life, employment and environmental consideration (UN General Assembly, 2006). The United States recognizes but has failed to ratify the CRPD.

Both nations seem to have now arrived at a similar philosophy toward PWDD. Vygotsky's positive dynamic assessments focus on ability, not disability (Gindis, 1995). The charity, medical, or biopsychosocial models of care, while progressively becoming more attune to an individual, continue to label a person as abnormal. And while remnants of these models remain in society today, a version of Vygotsky's positive, person-centered model has gained popularity.

To confirm this notion, the impact of quality of life in light of deinstitutionalization has been researched in both nations. Benefits of community life over institutional living have been demonstrated consistently over the years (Martinez-Leal, et al. 2011; O'Brien, et al. 2001; Schalock, et al. 2002). Ongoing findings regarding deinstitutionalization in Poland seems to be mixed (Martinez-Leal, et al. 2011; Otrebski, et al. 2003) „as the nation finds itself in flux. The Rawlsian Veil of Ignorance is slowly being lifted by researchers who point to the clinical and economic benefits of community inclusion like those noted in America, and philosophers who point to the dignity of full participation in society like those noted in Nussbaum's writings”.

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