
The Voluntaryist

WHOLE #22

"If one takes care of the means, the end will take care of itself."

NOVEMBER 1986

International Crime Bulletin

Wanted: The State Crime: Killing 155 Million People This Century

[Editor's note: The following essay (dated March 15, 1986) was originally titled, "Deadlier Than War: Non-Freedom." An abbreviated version was printed in THE WALL STREET JOURNAL on July 7, 1986, as "War Isn't This Century's Biggest Killer." R. J. Rummel is a professor of political science at the University of Hawaii at Manoa and has published the five volume work, **UNDERSTANDING CONFLICT AND WAR**, and **IN THE MINDS OF MEN: Principles Toward Understanding and Waging Peace**.

Professor Rummel's main conclusion is that "libertarian" or democratic governments are many times less deadly than totalitarian or absolutist governments. His statistical evidence is precise but he does not furnish any convincing explanation as to **why** democratic governments kill fewer of their opponents. His rationale that "free and secret elections and a wide franchise," and the existence of "diverse overlapping groups, elites, and power foci" account for the "moderation and civility" of democratic governments does not get to the bottom of the matter. Nor does his statement that people under democratic government "are not interested in being sent to slave-labor camps, executed for their beliefs, or tortured and beaten for criticizing their government," provide any reason. (People in the Soviet Union or China wish to avoid prison camp, but this in no way prevents their regimes from resorting to mass violence.)

First of all, Professor Rummel overlooks the anarchist insight into the nature of the State. All States commit invasive acts; the only differences between democratic and absolutist States is the amount of violence that they are required to exert. There is no difference in principle between two such States; only in the degree to which they threaten and destroy people and property.

Professor Rummel also ignores the voluntaryist insight. All States depend upon the consent and cooperation of the majority of their subjects. The distinction between "libertarian" or democratic governments and absolutist governments could be better viewed by considering the legitimacy factors of these types of States. All democratic States have a reasonably high legitimacy factor. State power rests on two foundations: the organization of the means of coercion and legitimacy. As George Smith once put it, "The more legitimacy a State enjoys, the less it relies on the overt use of physical coercion. The less legitimacy it has, the more it must depend on physical enforcement and terror tactics." Furthermore, Professor Rummel's claim that no "libertarian government" (a seemingly oxymoronic identification, but one which he defines as "a state that respects basic civil liberties and political rights, such as freedom of the press, religious freedom, and open competitive elections with a near-universal franchise) has carried out "massacres, genocide, and mass execution of its own citizens" ignores 19th century history, if nothing else. What about the American Civil War, the crusade against Mormon polygamy, the genocide of the American Indian, and the Spanish American War?

Peoples, such as the American Indians and Soviet Kulaks, who had no respect for the States which have attempted to subjugate them, must necessarily be exterminated or become convinced of the error of their ways. If the State cannot generate voluntary ser-

vitute by such persuasive institutional techniques as electoral politics and public school brainwashing, then it will resort to murder. The electoral system and "the vote" are the mechanisms by which democratic States justify their rule as resting on consent. Benjamin Ginsberg, in his book THE CONSEQUENCES OF CONSENT, observed that: "Elections—particularly democratic elections—substitute consent for coercion as the foundation of the state's power." (p. 7) Rummel's figures certainly prove Ginsberg's point. Violence is less widespread in democratic States because these States have been more successful (for whatever reasons) in attaining legitimacy.

New light is shed on Randolph Bourne's dictum that "War is the health of the State," when one weighs the legitimacy factor of a State against its propensity to resort to violence, particularly international violence. Actually, it is war **and legitimacy** that measure the health of the State. Inter-State conflicts, and the patriotic emotions they play upon, often serve to legitimize existing States with their own citizenry. Even if the State were not an institution with a built-in "expansion factor" and desire to increase its power, States would probably resort to war or make attempts at war just to rally their sagging reputations on the home front. If the Soviet Union did not exist, the politicians in Washington, D. C., would have to invent a new "enemy" State in order to justify their domination of the American people under the guise of "providing for the common defense."

Professor Rummel also passes over the connection between war and statism. War is a form of statism and can only be practiced by States. As Bourne explained in his essay "The State":

War is a function of this system of States, and could not occur except in such a system. . . . (N)ations organized in any way except that of a political centralization . . . , could not possibly make war upon one another. . . . There might be all sorts of amateur marauding, there might be guerilla expeditions of group against group, but there could not be that terrible war **en masse** of the national State, that exploitation of the nation in the interests of the State, that abuse of the national life and resource in the frenzied mutual suicide, which is modern war.

. . . War cannot exist without a military establishment, and a military establishment cannot exist without a State organization. War has an immemorial tradition and heredity only because the State has a long tradition and heredity. But they are inseparably and functionally joined. We cannot crusade against war without crusading implicitly against the State.

Professor Rummel's distinction between "war" and "death at the hands of governments" thus overlooks an important truth: that both of these categories constitute "death at the hands of the State." It would be interesting to determine how many people have been killed as a result of non-State criminal acts during the 20th century (e.g., murders, gangland killings, domestic squabbles, etc.). How near the 155 million mark would such a tally come? Such statistics would probably confirm what we already suspect: that the State, as an institution, is responsible for most of the people in society who die violent deaths.

The following article has been slightly edited. No significant portions have been expurgated, so that the reader may reach his or her own conclusions as to how well Professor Rummel has accounted for the nature of State-induced deaths. A six-page bibliography and a single-page appendix providing a nation-by-nation breakdown of people killed by States in the 20th century is available for \$2 plus a stamped, self-addressed envelope. Order from THE VOLUNTARYIST.]

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Wanted: The State

By R. J. Rummel

While libertarians have recognized the economic and moral virtues of a free society, they have largely ignored or been ignorant of an intrinsic hallmark of freedom: the libertarian governments of free societies are the most peaceful; the greatest respecters of the value of human life.

In a previous article (**Reason**, July 1983), I showed that libertarian governments do not make war on each other, that they have the least foreign and domestic violence, and that the greater the freedom in two nations, the less military violence there has been between them. Indeed, the most violent governments have been totalitarian; those least free. This is not only historical fact but is what we should expect in the future. Non-violence is inherent in freedom.

What is generally unknown about absolutist governments is that they kill many times more people than killed in all the international and civil wars put together. The worst absolutist governments are communist. They are killing machines; responsible for massacres, executions, starvation, and deaths from forced exposure, slave-labor, beatings and torture of at least 95,153,600 people in this century, or 477 people per 10,000 of their populations. By contrast, the number of battle casualties from all wars in this century is 35,654,000, or 22 per 10,000 people of the populations involved. On a per capita basis, communism is at least 20 times deadlier than war. **Communism in this century has killed even more people, aside from communist wars, than the 86 million that perished in all the wars and revolutions since 1740.**

Before elaborating on these incredible assertions, let me present and define the relevant data.

TWENTIETH CENTURY KILLED, BY CAUSE

CAUSE	TOTALS (In Millions)	AVERAGES PER 10,000 POPULATION
Government	119.4	349
Communist	95.2	477
Other non-free	20.3	495
Partially free	3.1	48
Free	.8	22
War	35.7	22
International	29.7	17
Civil	6.0	26

War means any international or civil violent conflict (such as a guerrilla war, rebellion, revolution, terrorist campaign) involving at least 1,000 killed in battle or action. This includes not only all the major wars, but also such "little" wars as the Druze War (1925-1927) of France, the Indonesian War (1945-1946) of the Netherlands, and the First Kashmir War (1947-1949) of newly independent Pakistan and India. Examples of the kind of civil wars whose battle deaths are counted here are the Spanish Civil War (1936-1939), the Palestinian uprising in Jordan (1970), and the Leftist campaign in Guatemala (1970-1971).

The figures on those killed by war can only be estimates, of course. But war deaths have been the object of much recent social sciences and historical research and I believe that even better data collected in the future will not significantly alter the table's totals.

The statistics for the number of government killed are a different story, however. I know of only one, very incomplete, attempt to tabulate the overall number of people killed by government (Gil Elliot, **Twentieth Century Book of the Dead**). In the case of some of the most lethal governments, such as those of the USSR, China, Nazi Germany, and Turkey, there are also figures based on much scholarly and demographic research. But I am sure that there are many more cases of "minor" massacres, genocide, and the like, that are underestimated for which information is unavailable, and which together would **increase** significantly the totals in the table. These overall totals for government killed, therefore, are most likely an absolute minimum and perhaps an underestimate by 10 percent or more. This makes the comparisons to war even more fantastic.

Government killed is defined here as any direct or indirect killing by government officials, or government acquiescence in the killing by others, of more than 1,000 people, except execution for what are conventionally considered criminal acts, such as murder and rape. This killing is apart from any ongoing military action or campaign, or any ongoing national or international conflict. That is, those killed in a riot by the police are not counted; nor are those civilians that die from urban bombing during a war, or from starvation during a military siege or enemy embargo.

The Jews that Hitler slaughtered during World War II would be counted, since their merciless and systematic killing was unrelated to any campaign (and actually conflicted with Hitler's pursuit of the war); similarly, the genocidal massacre of Ibo in Northern Nigeria in 1966 was quite apart from the Nigerian Civil War; and the deliberate Armenian genocide by the Turkish government during World War I had nothing directly or indirectly to do with military action. Unless otherwise indicated, figures for government killed are assumed to be for killings apart from war.

While any intentional killing that is government policy obviously must be included, should those that indirectly die from government policy be counted also? What about those political prisoners who perish from exposure and thirst while packed into freight cars transporting them to slave-labor camps, who freeze to death while being forcibly marched long distances in insufficient clothing, to labor in the snow, or who succumb to disease, malnutrition, exposure, or beatings in camps where the death rate may be 10 to 30 or more percent per annum? What about those who die in perilous attempts to escape abroad from being rounded up for concentration camps, forcible settlement in uninhabitable wasteland, collectivization, or simply fear and terror?

When the policies of the government are so repressive and terroristic that citizens imperil their lives by trying to flee the country, then I believe that government should also bear the responsibility for the resulting deaths. Where figures are available, they are included in the list of government killed. Thus, for example, I added in to the totals the conservatively estimated 100,000 Boat People that have died on the ocean fleeing Vietnam and Cambodia.

Moreover, as far as government responsibility is concerned, I see little difference between government executing a dissident or sentencing him to labor in a gold mine for 10 years under conditions that reduce his life expectancy to less than three years, except that the latter death is a relief after a kind of prolonged torture. Thus, I have included estimates of those who have died in the slave-labor camps of the Soviet Union and China, and the "new economic zones" of Vietnam.

The total killed also includes the Soviet government's planned and administered starvation of the Ukraine begun in 1932 as a way of breaking peasant opposition to collectivization and destroying Ukrainian nationalism. As many as 10 million may have been starved to death or succumbed to famine related diseases; I use the figure of eight million. Had these people all been shot, the Soviet government's moral responsibility could be no greater.

There are two more famines for which government responsibility is more attenuated and controversial. The first of these is the Soviet famine of 1921-1922 caused by the disruption of the 1918-1921 civil war in the countryside, and especially the forced requisition of food by the Soviets, imposition of a command agricultural economy, and liquidation campaigns of the Cheka. This famine resulted in from three to five million dead. My estimate

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The Psychiatric Will

A New Mechanism for Protecting Persons Against "Psychosis" & Psychiatry

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The psychiatric examination, diagnosis, treatment, and hospitalization of persons against their will (in and out of psychiatric, medical and other institutions) form a rich web of social policies legitimized by tradition, sanctioned by science, and articulated by law. Although ideas do have practical consequences, and although social policies usually rest on and are justified by ideas, the fact remains that ideas can be fully effective only against other ideas. To put it differently, arguments can be used only to rebut other arguments; they cannot be used, at least not directly, to change social policies or legal practices. Witch-hunts and the enslavement of blacks in the United States spring to mind as obvious examples. Although many people believed, and some even argued, that witches did not exist and that blacks were persons, witch-hunting did not stop until the witch craze had run its course, and slavery did not end in the United States until the South had been defeated in a brutal war by the North. It seems unlikely, then, that ideas and arguments alone could prevail against the well-established practices of coercive psychiatry either.

This conclusion should not strike us as in any way surprising. It is a plain and simple fact of life that just as individuals cannot be talked out of personal habits sanctioned by their conscience, so people cannot be talked out of collective practices sanctioned by their historical tradition and law. In each case, whether it be personal conduct or social custom, one pattern of behavior must be replaced by another. In this essay my aim is to propose a new social policy that will respect and protect equally the ideas and interests of both the proponents and the opponents of involuntary psychiatric interventions.

A brief remark about terminology is in order here. My reference to *psychiatrist*, to *psychiatric interventions*, and to *psychiatric wills* throughout this article is wholly a matter of semantic convenience. Although the issues addressed are traditionally psychiatric, they are no longer exclusively so. Thus, in most places where the term *psychiatrist* appears, it could be replaced by the term *psychologist* (or *social worker*): The dilemmas of involuntary "therapeutic" interventions now affect all professionals (as well as nonprofessionals) working in the mental health field. Indeed, as psychologists achieve equal footing with psychiatrists in institutional as well as in private practice, the issues considered here become equally relevant to the members of both groups.

I shall proceed by first briefly restating the traditional justifications for involuntary mental hospitalization and treatment and my previous arguments against them. Then I shall add a fresh—and it seems to me irrefutable—argument to the case against present commitment practices in the form of a new legal mechanism for accommodating the legitimate interests and demands of both the psychiatric protectionists and the psychiatric voluntarists. (1) The policy I shall propose attains the libertarian goal of complete protection from coerced psychiatry without depriving persons who wish to be the beneficiaries of involuntary psychiatric interventions from the protections that such measures allegedly offer.

The Problem of Psychiatric Coercion

The justifications for psychiatric coercions, which are enshrined in the history and vocabulary of psychiatry as well as in the terminology of modern commitment statutes throughout the world, fall into three distinct categories.

The first justification centers on the conjoint concepts of mental illness and mental treatment. It is believed that just as some persons suffer from bodily diseases, so others suffer from mental diseases, and that these diseases too are more or less amenable to medical treatment. Mental patients are thus urged to submit to psychiatric treatment. However, since mental illness is believed to

impair the judgment of those who suffer from it, it is held that some mental patients who "need" treatment do not avail themselves of it because they lack insight into their condition. This view is typically stated as follows: "The nature of many psychiatric illnesses is such that the denial of a need for treatment is an inherent element of the disease itself." Thus the need, and the justification, for involuntarily hospitalizing and treating persons afflicted with such disease is established. My objection to this argument is that mental illness is a metaphor and a myth. The term *mental illness* is a label we attach to certain unwanted, undesirable, feared, or prohibited acts. Since there are no mental diseases, there can be no treatments for them.

The second justification for commitment is usually identified specifically as "dangerous to oneself." This phrase is intended to denote the presence of an alleged condition called *illness*, from which people "suffer" and that makes them starve, mutilate or even kill themselves. The policy of commitment, based on the principle of *parens patriae*, is then invoked to deal with the threat to the so-called "patient's" health and life and also with the havoc that the "patient's" behavior is likely to create in the family or among the people who are forced to witness such disturbing behavior.

A respected defender of involuntary psychiatry puts this argument as follows: "It must be acknowledged that these severely ill people are not capable at a conscious level of deciding what is best for themselves and that in order to help them examine their behavior and motivation, it is necessary that they be alive and available for treatment." My objection to this position rests on the premise that in a free society bodily and personal self-ownership is a basic human right; that it is impossible to draw a satisfactory line of demarcation between self-harming behavior due to mental illness and such behavior not due to mental illness; and finally on the belief that those desiring to help troubled and troubling persons called "mental patients" should be satisfied with the option of offering help to their would-be clients and should be prevented by law from imposing "help" on them by force.

The third justification for commitment, now invoked with increasing frequency, is "dangerousness to others." This justification rearticulates the ancient idea that the insane person is "mad," is therefore a danger to society, and hence ought to be confined and segregated. The fundamental role of "dangerousness" as a justification for commitment was forcefully (albeit only implicitly) rearticulated in the Supreme Court's celebrated *Donaldson* decision, where the Court ruled that "a State cannot constitutionally confine without more (treatment) a *non-dangerous* individual . . ." I object to this argument because I believe that it is the duty of the state to prosecute and punish persons who deprive others of their life, liberty, or property. The right to self-ownership, which makes dangerousness to self a right, ipso facto makes (certain kinds) of dangerousness to others a crime, which ought to be controlled by means of the criminal law.

Therapy by the Judiciary

The differences between psychiatric protectionists and psychiatric voluntarists are rooted in the different views that they each have of the world about them. This difference is dramatically displayed in the danger each of them fears and from which each seeks protection by means of appropriate policies. The psychiatric protectionist fears psychosis and the dire consequences of psychiatric neglect. The psychiatric voluntarist fears forced psychiatric confinement and the dire consequences of compulsory psychiatric treatment.

Obviously, the proponents and opponents of involuntary psychiatric interventions reached an impasse long ago. Instead of recognizing and acknowledging that this impasse is rooted in the antagonists' different philosophical, political, and psychiatric premises, the "patient-rights activists" and the psychiatrists have turned to the courts to resolve the conflicts between them. But judges can resolve these conflicts no better now than legislators or psychiatrists could resolve them in the past. Conflicts of self-interest, of our quasireligious perception of the world about us and our place in it, and (last but not least) of raw power cannot be recognized, much less reconciled, so long as they are concealed by

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the "psychotic" claims of patients, the "therapeutic" claims of psychiatrists, or the "judicial" claims of the judges. The courts can give us "therapy by the judiciary," but they cannot give us a cognitive grasp, transcending the presumptions of contemporary "psychiatric science," of the problem of which they themselves are an important part. Recent court decisions concerning patients' rights illustrate the way the courts are compounding the mischief brought before them by involuntary mental patients and institutional psychiatrists.

In a celebrated class-action suit in Massachusetts, the courts were asked to decide whether committed mental patients had a right to refuse being medicated against their will. Judge Joseph Tauro ruled that the patients had such a right, justifying his decisions as follows:

Whatever powers the Constitution has granted our government, involuntary mind control is not one of them. . . . The fact that mind control takes place in a mental institution in the form of medically sound treatment of mental disease (does not warrant) an unsanctioned intrusion on the integrity of a human being.

Judge Tauro's ruling implicitly affirms an internally contradictory proposition: that some individuals are so seriously mentally ill or are so incompetent that it is justified to confine ("hospitalize") them against their will, but that they are mentally healthy enough or competent enough to refuse being drugged ("treated") against their will. Judge Tauro's reasoning illustrates how little his premises differ from those long held by the advocates of involuntary psychiatry.

With power now in the hands of the psychiatric protectionists, psychiatric protectionism rules. Although it is unlikely that the psychiatric abolitionists could impose their will on their adversaries in the foreseeable future, let us assume that such a situation could come to pass. Would imposing psychiatric abolitionism on those who believe in mental illness and involuntary psychiatric treatment be any more fair or just than the present imposition of coercive psychiatry on those who disbelieve its premises and detest its practices? Obviously, it would be equally unjust. And from a libertarian viewpoint, it would be equally undesirable.

The Specter of Psychosis Reconsidered

Above and beyond the usual justifications for commitment (mental illness requiring treatment, dangerousness to oneself requiring that "patients" be protected from themselves and dangerousness to others requiring society's protection from the "patients") there hovers an imagery about insanity that strongly supports the seeming necessity for involuntary mental hospitalization. This imagery, which has been adroitly exploited by its advocates, may be summarized as follows.

Mental illness is an illness like any other, but not quite. Unless they are unconscious, patients with coronary heart disease or cancer of the colon remain in possession of their mental faculties. Ordinary medical diseases do not impair judgment and the competence to assume or reject the patient role. But serious mental diseases, so this argument runs, "cause" the patients' judgment and competence to be impaired or even abolished. Seen through such psychiatric lenses, "seriously mentally ill" people (typically individuals with an "acute schizophrenic break" or in a "manic episode"), although seemingly conscious, are perceived as if they are not. This justifies treating them on the model of unconscious patients or children—not only without their consent but even against what (seem to be) their explicit objections.

In the many discussions and debates about commitment in which I have engaged, especially in public forums, I have found that the proponents of involuntary psychiatric interventions frequently fall back on this imagery as if it constituted an impregnable defense of their position. Typically, the argument, framed as a personal affirmation, goes something like this: "If I were to become acutely psychotic, I would hope that a psychiatrist would take care of me and treat me—without my consent—with X, Y or Z method, as my condition warranted." The advocate of psychiatric coercion then adduces anecdotes about involuntarily treated mental patients expressing gratitude to their psychiatrists for having saved them from the dire consequences of having psychotic

illness.

Pitted against my ostensible "denial" of mental illness and my alleged desire to "withhold" effective treatment from persons afflicted with life-threatening mental diseases, this argument strikes many people as morally compassionate as well as medically sound. In this essay, I shall try to refute it (or, perhaps more accurately, to transcend it) by proposing a fresh social policy for resolving the dilemma about commitment. Before stating that policy, however, I want to note that an individual psychiatrist's personal affirmation that should a "psychotic break" occur, she or he would want to be attended by a psychiatrist and, if need be, psychiatrically confined and treated against her or his will carries no more weight than does a religious person's affirmation that, should death be imminent, he or she would like to be attended by a member of the clergy. The fact that this or that person would like to be so treated does not warrant contending that others should also be treated whether they like it or not.

Is there a way of adequately countering the justification of commitment based on an imagery of insanity as a malady that may strike people suddenly, without warning, and thus render them proper subjects for involuntary psychiatric hospitalization and treatment? There is. The solution to this dilemma lies buried, as it were, in the mechanisms our society had developed for anticipating and coping with certain other situations in which a moral agent's capacity to act competently is diminished or destroyed. There are two typical situations of this sort: death and incapacitating terminal illness. And there are two legal instruments that have been developed to cope with them: wills (last wills or testaments) and so-called living wills. I propose that we create a third type of will: the "psychiatric will."² After reviewing the nature and present status of living wills, I shall indicate what a psychiatric will might be like, what it might accomplish, and what alternatives might be available for dealing with individuals or situations now managed by means of coerced (court-imposed) psychiatric measures.

The Last Will and the Living Will

Many of us are eager to exercise our desires over the distribution of our property after we die. It is the purpose of the last will to assure this by extending our control into a situation in which, once it has occurred, we can no longer exercise any control at all.

Although the use of the last will is an ancient practice, the anticipation of a lingering, painful, and absurdly expensive terminal illness and the desire to control its management (in advance, as it were) are of much more recent origin. The so-called living will now meets this contingency. Executed while the person is not disabled by illness, a living will directs those responsible for caring for its author to abstain, under certain circumstances, from administering life-sustaining measures to him or her. The legal philosophy underlying this practice is illustrated by the following opinion of a Kansas court in the case of *Natanson v. Kline*: "Anglo-American law starts with the premise of thorough-going self-determination. It follows that each man is considered to be the master of his own body, and he may, if he be of sound mind, expressly prohibit the performance of life-saving surgery."

After reviewing the literature on "Compulsory Lifesaving Treatment for the Competent Adult," Robert M. Byrn concludes that "Every competent adult is free to reject life-saving medical treatment. This freedom is grounded, depending upon the patient's claim, either on the right to determine what shall be done with one's body or the right of free religious exercise—both fundamental rights in the American scheme of personal liberty."

The psychiatric will I propose rests on the same principle and seeks to extend it to "mental treatment." It asserts, in effect, that competent American adults should have a recognized right to reject involuntary psychiatric interventions that they may be deemed to require *in the future*, when they are *not competent* to make decisions concerning their own welfare. My model for the psychiatric will is the so-called living will; and, more specifically, the rejection by Jehovah's Witnesses of blood transfusion as a medical treatment.

A frequently cited opinion concerning the constitutionality of allowing Jehovah's Witnesses to reject blood transfusion, even when the transfusion may be lifesaving, was formulated in 1964 by

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Chief Justice (then Circuit Judge) Warren Burger. In this opinion, Burger recalled Justice Brandeis' famous words about our "right to be let alone." "The makers of our Constitution," wrote Brandeis, "... sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights, and the right most valued by civilized man." To which, Chief Justice Burger added these (for my present purposes, decisive) words: "Nothing in this utterance suggests that Justice Brandeis thought an individual possessed these rights only as to *sensible* beliefs, *valid* thoughts, *reasonable* emotions, or *well-founded* sensations. I suggest he intended to include a great many foolish, unreasonable, and even absurd ideas which do not conform, such as refusing medical treatment even at great risk."

Since the First Amendment to the Constitution bars the government equally from imposing special burdens on or extending special privileges to members of one or another religious group, it follows that if Jehovah's Witnesses possess such far-reaching rights to reject what they consider to be unwanted medical interventions, so do we all.

Actually, the position of Jehovah's Witnesses toward blood transfusion constitutes a special case in a much larger class of instances in which individuals want to reject medical treatment, even when such treatment may be lifesaving (or life-prolonging, a distinction that may sometimes be difficult to make). The paradigm here is the case of the aged or incurably ill person who does not want his or her life prolonged by means of extraordinarily complex, invasive or expensive medical measures. Several groups are now lobbying on behalf of gaining for such persons a recognized "right to die." One of them, the "Society for the Right to Die," has drafted a model "living will." I shall cite a few lines of it to suggest its thrust and to indicate the form that a "psychiatric will" might take.

Declaration made on this _____ day of _____ month/year.

I, _____ being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare: if at any time I should have an incurable injury, disease . . . I direct that such (life sustaining) procedures be withheld or withdrawn and that I be permitted to die naturally. . . . In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment.

Where the person is conscious and rational, the courts have, as we have seen, tended to accept the principle that an individual has a right to refuse medical treatment even if the result is death. "Even in an emergency situation," explains Lappe (1978), "where death would ensue if treatment were not administered, the court, in *In re Estate of Brooks*, up held a patient's refusal of treatment." Since involuntary psychiatric interventions are rarely lifesaving (and even if they were in conformity with the foregoing ethical-legal principles, that would not be enough to justify their forcible imposition on unwilling clients), the *parens patriae* rationale for psychiatric coercions is gravely undermined by the evidence I have adduced. Indeed, since the psychiatric will I propose would bestow the rights to reject psychiatric treatment on persons deemed (even by courts and psychiatrists) to be fully competent and rational at the time of their making their decision against *involuntary* psychiatry, it is difficult to see on what constitutional, moral or political grounds Americans can be denied this right.

The Psychiatric Will

An impasse between the protagonists of two positions, each basing their policies on different premises, is thus not unique to the conflict about psychiatric commitment. As the example of the dilemma concerning giving blood transfusions to Jehovah's Witnesses illustrates, American law has resolved this conflict by decreeing that no adult should undergo a blood transfusion who doesn't want to and that no adult who wants to receive blood

should be denied the benefits of this treatment (assuming that he or she has access to medical care).

It is surprising that a similar tactic of conflict-resolution has apparently never been proposed for dealing with the conflict between the proponents and opponents of coercive psychiatry. I shall restate the conflict about commitment so that the differing premises of the two protagonists are clearly articulated.

Many people (and virtually all psychiatrists and other mental health experts) fear the danger of a "nervous breakdown" or "psychotic illness." These persons believe that mental illness exists, that it is "like any other illness," that it is amenable to modern psychiatric treatment, and that the effectiveness and legitimacy of such treatment are independent of the patient's consent to it. Accordingly, such persons seek protection from "life-threatening" mental illness and support the use of involuntary psychiatric interventions.

On the other hand, some people (including a few psychiatrists and other mental health experts) fear the literal danger of psychiatry more than the metaphoric danger of psychosis. Some of these persons also believe that mental illness does not exist and that psychiatric coercions are tortures rather than treatments. Accordingly, such persons seek protection from the powers of psychiatry and advocate the abolition of involuntary psychiatric interventions.

Let me now apply the principles underlying the last testament and the living will to the psychiatric contingency some people might want to anticipate and control. The imagery of "sudden madness" or "acute psychosis" sketched earlier represents the dreaded situation that some persons may want to anticipate and plan for. Since involuntary psychiatric confinement is a tradition-honored custom in modern societies, the situation such persons need to anticipate must be *their own sudden madness managed by others by means of commitment and coerced treatment*. To forestall such an event, we need a mechanism enabling anyone reaching the age of maturity, who so desires, to execute a "psychiatric will" prohibiting his or her confinement in a mental hospital or his or her involuntary treatment for mental illness. Those failing to execute such a document before an actual encounter with coercive psychiatry would, of course, have the opportunity to do so as soon as they have "recovered" from their first episode of "mental illness" or otherwise regained their competence.

Since commitment entails the loss of liberty, the foregoing mechanism for its protection is relatively weak, requiring as it does the affirmative assertion of a desire to do without involuntary psychiatric care. In the absence of such a declaration, the person would remain a potentially defenseless subject for psychiatric coercion. Although such an arrangement would be a great improvement over the present situation, a more powerful psychiatric will could easily be fashioned by inverting the right to be asserted in it. In this "strong" version of the psychiatric will, people would have to assert their rights to be the beneficiaries of psychiatric coercion should the "need" for it arise. This would leave everyone who has not executed a psychiatric will free from psychiatric coercion, much as we are free, without having to go to such troubles, of theological coercion. (3)

The use of psychiatric wills might thus put an end to the dispute about involuntary psychiatric interventions. Earnestly applied, such a policy should satisfy the demands of both psychiatric protectionists and psychiatric voluntarists. Surely, the psychiatric protectionist could not, in good faith, object to being frustrated in their therapeutic efforts by persons competent to make binding decisions about their future—specifically, decisions to prohibit personally authorized psychiatric assistance. Nor could the psychiatric abolitionists object, in good faith, to being frustrated in their libertarian efforts by persons competent to make binding decisions about their future—specifically, to authorize, under certain circumstances, their own temporary (or not-so-temporary) psychiatric enslavement.

What the Psychiatric Will Would Do

Although in the compass of a brief article it would be impossible to anticipate and to articulate all of the consequences that might result from adopting the use of a psychiatric will such as I have pro-

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The Psychiatric Will (Continued)

posed, some of its effects (including certain new problems it would generate and how we might cope with them) deserve to be mentioned.

To begin with, although my main purpose in proposing a psychiatric will is to protect potential patients from unwanted psychiatric interventions, such a document would also protect would-be-therapists from the risks they now face in their relations with involuntary mental patients. This dual function of the psychiatric will is inherent in its being an instrument for transforming a status relationship into a contractual relationship.

As matters now stand, psychiatrists faced with the task of having to care for "seriously ill mental patients" often find themselves in a Catch-22 type of situation: They are in danger of being sued both for confining and for failing to confine the "patient," for using coercive treatment as well as for failing to use it. The psychiatric will, prospectively requesting or refusing involuntary psychiatric interventions, would constitute a contract between potential future psychiatric patients and their potential future psychiatrists. Hence, while it would protect the former from psychiatric coercion or psychiatric neglect (as the case may be), it would protect the latter from charges of unauthorized treatment or unprofessional neglect.

The situation of the "psychiatric patients" would briefly be this. For those who choose (whether actively or passively) to accept involuntary psychiatric interventions, the psychiatric will is unlikely to make much difference, except as noted above. For those who choose to reject such interventions, the consequences would depend on specific circumstances.

One large group of individuals who would have to be treated differently than they are at present is comprised of persons charged with serious crimes. Such persons are now routinely subjected to pretrial psychiatric examinations to determine their competence to stand trial. With the use of psychiatric wills, this tactic could be used only with the permission of the accused. As in times past, such individuals would be *presumed* to be rational and competent. The principle that a defendant is presumed to be competent to stand trial, like the principle that he or she is presumed to be innocent until proven guilty, would thus be restored to the American criminal law. *Mutatis mutandis*, persons who commit crimes would have to be tried, and if guilty, punished, instead of being diverted into the psychiatric system.

Finally, individuals innocent of lawbreaking but deemed to be in need of psychiatric care would have to be persuaded that receiving such care serves *their* best interests. If that option fails, they would, in Justice Louis Brandeis' words, have to be granted their "right to be let alone." Such a situation in which both presumably helpless individuals and the individuals ostensibly desirous of helping them are each deprived of the option of forcibly coercing the other, would generate a powerful stimulus for creating new ways of dealing with the diverse dimensions of the problems now mislabeled as "mental illnesses" and mismanaged as "psychiatric treatments."

(1) Another brief remark about terminology is in order here. In my earlier writings, I used the term *psychiatric abolitionist* to refer to the person who, on the analogy with involuntary servitude, who want to abolish involuntary psychiatry. Here respecting the self-declared motives of the parties to the conflict, I use the term *psychiatric protectionist* to refer to the person who supports the use of involuntary psychiatric interventions to protect "psychotic patients" from the consequences of their "illness" and the term *psychiatric voluntarist* to refer to the person who supports the use of voluntary psychiatric interventions only to protect individuals from the consequences of psychiatric coercion. Using the power of the state to prohibit psychiatric relations between consenting adults is, of course, just as inimical to the spirit of liberty as is using that power to impose psychiatric relations on unwilling "patients."

(2) Actually, at the present time, neither last wills nor living wills are protected against nullification by psychiatric power. The policy I propose in this paper thus provides protection not only against unwanted involuntary psychiatric interventions imposed on living and conscious individuals, but also against the psychiatric overriding of last wills and living wills. In 1971, I proposed a mechanism for protecting a person's last will against posthumous psychiatric nullification by means of a mechanism similar to that developed in this paper. The ideal of applying this argument to involuntary mental hospitalization and treatment I owe to Professor Walter Block, to whom I wish to express my sincere thanks.

(3) As a concession to current social practices, I have listed the two versions of the psychiatric will in what I consider to be, from a point of view of political philosophy, an inverse order. Although the stronger version of the psychiatric will is theoretically more attractive, because the paternalistic perspective on involuntary psychiatric interventions is now so prevalent, the weaker version may be practically more acceptable. Of course, the rejection of psychiatric interventions need not be total in either version of such a will. For example, some persons might wish to authorize coerced hospitalization and to forbid treatment by drugs or electroshock, while others might wish to authorize coerced drug therapy and to forbid confinement. Only through a mechanism such as this could the responsibilities as well as the rights of the "severely mentally ill" be expanded.

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is four million.

The second famine is the worst in history, and until recently, a well kept secret. It was caused in China by Mao Tse-tung's agriculturally destructive Great Leap Forward in 1958-1959. As many as 40 million people may have perished; I use an estimate of 27 million, which is closer to that of American demographic studies. The Chinese government itself now admits to over 10 million dead.

I believe that the Soviet and Chinese governments should be held accountable for the dead in these famines. However, because including the dead from these two famines would be controversial, I will exclude them from further consideration here.

One more aspect needs clarification. That free governments have killed 831,000 people in our century should come as a shock to most readers. This figure involves the French massacres in Algeria before and during the Algerian war (36,000 killed, at a minimum), and those killed by the Soviets after being forcibly repatriated to them by the Allied Democracies during and after World War II.

It is an outrageous fact that in line with the Yalta Agreement signed by Stalin, Churchill, and Roosevelt, the Allied Democracies, particularly Great Britain and the United States, turned over to Soviet authorities more than 2,250,000 Soviet citizens, prisoners of war and Russian exiles (who were **not** Soviet citizens) found in the Allied zones of occupation in Europe. Many of these people held international passports, some even having lived in Europe since fighting the Bolsheviks in the Russian civil war of 1918-1921.

Most of these people did not want to be turned over to the Soviets, were terrified of the consequences, and refused to cooperate in their repatriation; often whole families committed suicide to avoid it. British and American officials had to use lies, deceit and force (and tight secrecy and public deception to avoid public outcry — apparently even relevant officials who might have blocked the repatriation were deceived) to achieve this repatriation. Incredibly, Soviet agents were allowed behind Allied lines to help hunt down those who tried to escape repatriation; numerous escapees were shot in the process.

Select high British and American officials knew that large numbers of those returned were executed within hours, most of the others being sent off to slave labor camps to die slowly. Of those the Allied Democracies so turned over to communist mercies, an estimated 795,000 were executed, or died in slave-labor camps or in transit to them.

If a government is to be held responsible for those prisoners who die in freight cars from privation, or in camps from exposure, surely those libertarian governments that turned helpless people over to totalitarian rulers with foreknowledge of their peril, should be held responsible.

Turning now to compare the overall mortality statistics shown, it is a sad fact of recent decades that tens and hundreds of thousands of people can be killed by governments with hardly an international murmur, while a war killing several thousand people can cause an immediate world outcry and global reaction. Simply contrast the international focus on the relatively minor Falkland Islands War between Britain and Argentina with the widescale lack of interest in Burundi's killing or acquiescence in such killing of about 100,000 Hutu in 1972, of Indonesia slaughtering a likely 600,000 "communists" in 1965, and of Pakistan, in an initially well planned massacre, eventually killing from one to three million Bengalis in 1971.

A most noteworthy and still sensitive example of this double standard is the Vietnam War. The international community was outraged at the American attempt to militarily prevent North Vietnam from taking over South Vietnam and ultimately Laos and Cambodia. "Stop the killing" was the cry, and eventually, the drumbeat of foreign and domestic opposition forced an American withdrawal. The overall number killed in the Vietnam War on all sides was about 1,216,000 people.

With the United States subsequently refusing them even modest military aid, South Vietnam was militarily defeated by the North and completely swallowed; and Cambodia was taken over by the communist Khmer Rouge, who then tried to recreate a primitive communist agricultural society. All urban centers were immediate-

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ly emptied of people by force; all former government officials were executed; all bourgeois were liquidated; any actual or possible opponents or resisters were killed; most of the remaining educated and professional Cambodians were murdered; and "common" folk violating the numerous rules governing their dawn to dusk forced peasant labor were killed.

The estimates of the number of men, women and children who were thus exterminated in cold blood by this slaughterous government range from one to three million Cambodians. If we take a middle two-million as the best estimate, then **in four years the government of this small nation of seven million alone killed 64 percent more people than died in the 10-year Vietnam War.**

While international attention finally did turn to Cambodia and the United Nations was pushed into taking reluctant official notice, this was a murmur compared to the screams over America's efforts to prevent, among other consequences, just such a bloodbath that would follow communization. The best estimate of those killed after the Vietnam War by the victorious communists in Vietnam, Laos, and Cambodia is 2,270,000 (not counting those who have died in the subsequent wars of Vietnam with China and Cambodia, and the continuing guerrilla war in Cambodia). This is almost **twice** as many as died in the Vietnam War, and this government killing still continues.

To view this double standard from another perspective, consider the horror over the deaths from mankind's two greatest wars. Nine million died in battle in World War I; 15 million in World War II. Both wars cost together 24 million lives. But many more than this number of their own citizens have been killed by the Soviet or Chinese communist governments alone. From 1918 to 1953, the Soviet government executed, slayed, slaughtered, starved, beat or tortured to death, or otherwise killed 39,500,000 of its own people (not counting the Lithuanians, Latvians, Estonians, Poles, Romanians, Germans, etc., the Soviets exterminated during their military occupation of these countries and absorption of all or part of them). This is my best estimate among figures ranging from a minimum of 20 million killed by Stalin to a total over the whole communist period of 83 million. For China under Mao Tse-tung, the communist government eliminated, as an average figure between estimates, 45,000,000 Chinese. **The number killed for just these two nations is about 84,500,000 human beings, or a lethality of 252 percent more than both World Wars together.** Yet, have the world community and intellectuals generally shown anything like the same horror, the same outrage, the same outpouring of anti-killing literature, over these Soviet and Chinese megakillings as has been directed at the much less deadly World Wars?

When one considers this killing per 10,000 population, the comparison is even starker. Wars have killed 22 people per 10,000 of the population involved. The Soviet government killed 2,323 per 10,000; the Chinese communist government 672; the Cambodian Khmer Rouge 2,667.

Compared to war, these figures are so large as to seem absurd. Yet, even if the most conservative, indisputable figures are used, the difference remains incredible. The minimum and best documented figure on the Soviet Union that I have seen is that of 20 million killed under Stalin given by Robert Conquest in his **The Great Terror** (and this he considers a probable underestimate by 50 percent or more). Even that absolute minimum is greater than the battle deaths of World War II, more than half of the deaths in all international and civil wars in this century; it is an absolute minimum of 1,176 people killed per 10,000 or 54 times the number killed per 10,000 of the populations involved in war—that is, **54 times the death risk of war.**

Communist governments are overall almost four times more lethal to their citizens than non-communist ones, and in per capita terms nearly twice as lethal (considering the huge populations of the USSR and China). However, as large as the per capita killed is for communist governments, it is nearly the same as for other absolutist governments. This is due to the massacres and widescale killing in the very small country of East Timor, where since 1975 Indonesia has eliminated (aside from the guerrilla war and associated violence) an estimated 100 thousand Timorans out of a population

of 600 thousand. Omitting this country alone would reduce the average killed by noncommunists, nonfree governments to 397 per 10,000, or significantly less than the 477 per 10,000 for communist countries.

In any case, even including the special case of the forced repatriation of millions to the Soviet Union by the Allied Democracies, we can still see that the more freedom in a nation, the fewer people killed by government. Freedom acts to brake the use of a governing elite's power over life and death to pursue their policies and ensure their rule. Why should this be so? For the same reason that libertarian governments are least violent and militaristic.

Where there are civil and political rights, free and secret elections, and a wide franchise, the governing elite are dependent upon the electorate for their power and continuance in office. Moreover, their power is limited and divided among different elites and groups, and they constantly have an official opposition looking over their shoulder for the slip, the mistake, the misuse of power that could be used to wrest authority from them in the next election. Moreover, with such freedoms, the society develops diverse overlapping groups, elites and power foci, a rich pluralism that cross-pressures and thus moderates interests and policies. Government is not only responsive to the core interests of a free people, but also reflects the central **moderation and civility** of the plural, cross-pressured society, produced by freedom.

But above all, people are not interested in being sent to slave-labor camps, executed for their beliefs, or tortured and beaten for criticizing the government. In its essence, no libertarian government can do other than mirror and respond to this core interest of the people in self-preservation.

This axiom appeared to be violated in two aforementioned special cases. One was the French government carrying out mass killing in the colony of Algeria, where compared to Frenchmen the Algerians were second class citizens, without the right to vote in French elections. In the other case the Allied Democracies acted during and just after wartime, under strict secrecy, to turn over foreigners to a communist government. These foreigners, of course, had no rights as citizens that would protect them in the democracies. **In no case have I found a libertarian government carrying out massacres, genocide, and mass executions of its own citizens; nor have I found a case where such a government's policies have knowingly and directly resulted in the large scale deaths of its people through privation, torture, beatings and the like.**

Where the government is totalitarian, as under Soviet communism or the current Muslim ayatollas of Iran, or absolutist as under Idi Amin of Uganda or Francisco Macias of Equatorial Guinea, the ruling elite have the same effective power over their people that slave masters have over their slaves. Mass killing, executions, force privation, and the like, then become a practical means to maintain power, eliminate opposition, punish disobedience, and pursue political, economic, social, and religious policies. Without the restraints of opposing power foci, regular competitive elections, free speech, and a pluralistic social system, it is natural that human life will be secondary to a regime's desire for self-preservation, power, and the success of its policies.

Hitler's mass murder of millions of Jews is widely believed to have been an historical aberration, a once only, monstrous result of an absolute ruler's sick racism. If this article achieves nothing, I hope that it shows that the Jewish Holocaust, for all its horror and the outrage it has deservedly provoked, is but a particular example of mass killing by governments—and not even among the bloodiest. Hitler killed from 4.2 to 4.6 million Jews, but he also killed (aside from military action) 425 thousand Gypsies, 2.5 million Poles, 3 million Ukrainians, 1.4 million Belorussians, and 2.5 to 3 million Soviet prisoners of war. Overall, Hitler was responsible for the mass murder of about 17 million people. But Stalin killed a minimum of 20 million, Mao killed perhaps 45 million. And Pol Pot, having slaughtered over 25 percent of the Cambodian population in four years, might have even doubled the records of these bloody tyrants if he had ruled as large a population for as long.

Of course these tyrants are responsible for this butchery. But what enabled them to do it was their absolutist and totalitarian

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power. It would be a grave error to focus on them alone as the cause of mass killing. We should concentrate instead on the enduring political pattern that breeds such monsters and encourages and facilitates their bloody work. Such is the pattern whose variations we call totalitarianism and absolutism and dictatorship. And such a pattern has at its core the lack of civil rights and political freedoms. **It is non-freedom.**

Absolutism is not only many times deadlier than war, but itself is the major factor causing war and other forms of violent conflict. It is a major cause of militarism. Indeed, absolutism is mankind's deadliest scourge of all.

In light of all this, the peaceful, nonviolent pursuit and fostering of civil liberties and political rights must be made mankind's highest humanitarian goal. Not simply to give the greatest number the greatest happiness, not simply to obey the moral imperative of individual rights, not simply to further the efficiency and productivity of a free society, but also and mainly because freedom deserves peace and life.

HELP and RESPOND!

An Assessment of our Situation

This issue is the fifth newsletter since I moved to South Carolina last March. Many thanks are due Paul Bilzi for continuing to act as a long-distance sounding board. His promptness has certainly helped get THE VOLUNTARYIST out!

When The Voluntarists was organized (during the summer of 1982) by Wendy McElroy, George H. Smith, and I, its purpose was essentially to keep the anti-electoral spirit of libertarianism alive. That goal has been accomplished to some extent through a few conferences that we sponsored in Los Angeles and New York, as well as through this newsletter, and some of the book material that we have put into circulation.

A second aim of The Voluntarists was to create a newsletter that would encompass both the many centuries of libertarian heritage and be on the cutting edge of late-20th century libertarian theory. The fact that THE VOLUNTARYIST newsletter is still going strong speaks well of our efforts to date (though there have certainly been a few fits and false starts). The newsletter is self-sustaining, though its circulation has never been very substantial (always hovering in the 250-350 range). Right now, our subscription count is on the low end and needs to be increased.

Both George and Wendy have let THE VOLUNTARYIST slip into my hands and, as a result, I've put myself in charge. It has become my responsibility and if it is to be kept alive, the obligation is mine. My intention is to continue publishing THE VOLUNTARYIST and to improve both its quality and circulation.

The old **LIBERTARIAN FORUM** is the kind of model I have in mind. I'd like to include some commentary on news of the day, including political and financial topics. There has been practically nothing like this in **THE VOLUNTARYIST** to date, and I think it is time to broaden our horizons. We can still remain on the front lines of libertarian theory and have a lot of fun analyzing the follies and foibles of statism.

Another idea: I believe I can get THE VOLUNTARYIST out more frequently than once every two months. My plan would be to guarantee 6 issues per year (our present bi-monthly schedule), but if enough material was on hand, the newsletter could be published every 6 weeks. Subscriptions would simply remain at their present rate of 6 issues for \$15, and renewals would be presented accordingly.

Your response and help is needed! I am looking for those interested in writing for us, submitting letters to the editor, and keeping alert for high quality reprint material. Would you like to see THE VOLUNTARYIST more than 6 times a year? Would you like to read commentary on the news? Can you furnish us with some new subscribers by way of gift subscriptions?

I think THE VOLUNTARYIST can do a great job, but it can't be done alone. Let us know your thinking and where you might be able to assist. Please mail the enclosed postage paid card with your comments.

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