NOTES

Public Welfare and Labour Mobility: the Case of Britain (1349-1834), Prussia (1696-1871), and Switzerland (1848-1975)

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Before the emergence of the modern welfare state, European countries tried to reconcile public welfare with free interregional mobility in various ways. The political steps taken to effect such reconciliation in England between 1349 and 1834, in Prussia between 1696 and 1871, and in Switzerland between 1848 and 1975 seem to be particularly interesting. Whereas England and Prussia favoured a centralization of welfare politicy, Swiss anti-poverty policy essentially remained with the cantons.

I

Britain[1] represents the classic country for public welfare. It was ahead of other European countries as far as its political and economic situation was concerned. Accordingly, legislators paid attention quite early to the increasing conflict between free mobility and public welfare. The main characteristic of English anti-poverty policy consisted in a distinction between the able-bodied poor on the one hand and people unable to work (the so-called "deserving poor") on the other. Priority was given to deterring the former from public assistance. Thus as early as 1349, the "Ordinance of Labourers" excluded able-bodied beggars from public welfare. As they consequently left places where the ordinance was generally applied (and went to places where it was neglected), the central government subsequently in principle banned all

[1] See especially: ASCHROTT 1909, pp. 93-104; ROSE 1971; PIPKIN 1937.

beggars' immigration in 1388.[2] They were only occasionally authorized to leave their parish, when a "letter of depart" indicated the destination and purpose of their journey. This statute undoubtedly prevented migration that did not improve economic efficiency, i.e. the allocation of the labour force. But it was also inclined to prevent efficient migration (as powerful interregional employment agencies were lacking at this time).

Free mobility was further sacrificed to the deterrence of the able-bodied poor in the coming legislation: in 1495 Parliament obliged local authorities to deport non-local beggars to their community-of-origin within a period of six weeks (after having put them into jail before). Accordingly, the home parish was responsible for maintaining the local poor from 1531 (Henry VIII) onwards. It issued "Letters of Licence" for the deserving poor. In 1572, the honorary post of "Overseer of the Poor" was created, which strengthened the formal separation between the local poor on the one hand and vagabonds on the other. Assistance by the parish of original residence subsequently reduced interregional mobility. Whereas an Act of 1596 provided for arrest, repeated whipping and expulsion of vagabonds to their community-of-origin[3], the "old Poor Law" (Elizabethan Poor Relief Act) in 1601 made the respective parish of residence responsible for maintaining all poor, i.e. irrespective of their origin.[4] This act (which summarized several arrangements from the period of 1531 to 1571) put too much of a burden on receiving communities. Consequently, local assistance within the original residence was restored in the "Act of Settlement" under Charles II in 1662. This Act was quite generous in so far as local assistance could be achieved not only through local birth, but also by virtue of local independent business, employment or apprenticeship and finally by mere local settlement for only forty days.[5] The Overseer of the Poor however was allowed to send back every new arrival within forty days to his last place of legal settlement. The Act thus formally acknowledged what had so far been ordinary custom.[6] This custom consisted in rejecting anyone who was considered likely to fall into dependency sooner or later. To treat the Act of Settlement as a prohibition of immigration is therefore not justified.[7] In the absence of an interregional granting system it seems to be comprehensible that each parish tried to prevent the immigration of "high risks", but approved the influx of able-bodied labour. The latter provided for public revenues whereas the former risked enhancing public expenditures.

[2] The Statute of 1388 has occasionally been called the first English Poor Law. Fischer 1982, p. 41 concludes from the frequent repetition of its provisions that it actually remained ineffective.

[3] Fischer 1982, p. 43.

[4] Aschrott 1909, p. 95.

[5] Aschrott 1909, p. 95.

[6] Rose 1971, p. 12.

[7] See e.g. Pipkin 1937, p. 231.

Mobility declined in the course of time. An increasingly restrictive legislation finally attached assistance by the parish of original residence to local birth or apprenticeship. Potential immigrants were generally rejected. In 1799, increasing poverty, inter alia due to an inefficient allocation of labour, led to a relaxation of the original abode rule in the "Speenhamland Act". The mere probability of public need was no longer sufficient for expulsion. Instead, the rejecting parish had to prove that the immigrant was in *actual* need.[8] The expulsion of sick poor was prohibited altogether.

The new Poor Law ("Poor Law Amendment") in 1834 centralized public assistance to the poor on the one hand, but reestablished free mobility on the other. Its main characteristic consisted in the establishment of a central Commission supervising and regulating local anti-poverty policy.[9] Labour mobility was promoted by a granting system: the central Commission united several parishes in the management of common welfare policy. More especially, each parish sent its local poor to common work houses and the central Commission determined financial redistribution according to the causation principle. Incentives to reject non-local labour ceased to exist.

From 1846 onwards, immigrants became so-called "irremovable paupers" after having lived in a parish for a period of five years. This period was reduced to one year by the turn of the century. The expulsion of removable paupers to their parish-of-origin was replaced by a bilateral compensation scheme in favour of the parish-of-residence. Thus the situation of the old Poor Law was reestablished with regard to free mobility. Moreover, an interregional granting system was established. Finally, local responsability for anti-poverty politicy was abolished step by step.

II

Prussia[10] differed at the beginning of the XVIIIth century (Frederick I) from most other German countries in its strong state authority, and since Frederick II in its "Benevolent Despotism". Both factors were reflected in a comparatively early realisation of free mobility. As in England, this development was accompanied by drawbacks.

In 1696, an edict was issued to suppress foreign beggars, but not victims of expulsion. (Accordingly, French Huguenots helped Prussia to prosperity). From 1708 onwards the towns were obliged to assist all paupers unable to work who had been living in the parish for a period of ten years. Only between 1720 and 1728 did Prussia temporarily return to the original residence rule.

The "Allgemeine Preußische Landrecht", the main Prussian legal framework dating from 1794, created the first European anti-poverty scheme alle-

[8] Henriques 1979, p. 16.

[9] See in detail: Rose 1971, especially pp. 95 ff.

[10] For an overview see: Krech 1990, pp. 30-40.

viating the conflict between public welfare and free mobility. On the one hand the communities were no longer allowed to reject able-bodied immigrants. If these people had been contributing to the local tax system for a minimum period of three years, the parish-of-residence had to keep them in cases of need. In practice, however, the receiving community not only assisted members who had been born there and taxpayers, but all residents who had been living in the community for at least three years. The Prussian central state assisted any remaining paupers in so-called "Landarmenverbänden" on a regional level. They were directly financed by the central budget,[11] provided that their work in the regional workhouses ("Landarmenhäuser") was not sufficient for self-maintenance.[12]

The basic principles of the "Landrecht" were worked out in the Act of 1842.[13] The obligation to assist poor residents formally arose from now on after a period of three years if the potential recipient had not yet profited from public welfare payments. However, this provision did not achieve free mobility in a global sense either. In cases of actual poverty or necessary public assistance within the first year of residence, the pauper was rejected or expelled. This arrangement continued to exist in the Act of 1855, which tended to relieve the communities-of-residence: a claim on local assistance emerged only after four years. In the meantime the local authorities of the community-of origin remained responsible.

The rejection of able-bodied but needy persons prevented a more efficient allocation of labour. Moreover, the Prussian legislation was partly annulled in practice by countervailing local law. Various communities asked for admission fees before accepting settlement.[14] This habit was only abolished in 1867 in an Act on free mobility which extended the Prussian arrangement to the "North German Association" (Norddeutschen Bund). However, as the Act of 1867 did not replace, but only complemented the Poor Law of the non-Prussian countries within the Association, the Poor Law was harmonized only in 1870, on the eve of German unification.[15] In contrast to the former Prussian arrangement, it authorized the communities only exceptionally to expel non-local people. Instead, the current parish-of-residence could call for refunding of all public welfare expenditure beyond six weeks of assistance. Expulsion was only possible in cases of permanent need. A claim on residence assistance was valid after a period of two year's residence. The funding for the regional "Landarmenverbänden" varied among the different German sta-

[11] Roestel 1938, p. 25; Sachsse/Tennstedt 1980, p. 96.

[12] See Allgemeines Preußisches Landrecht, 2d part, 19th title, §§ 29-31.

[13] "Gesetz über die Aufnahme neu anziehender Personen". See Roestel 1938, pp. 26 ff.; Munsterberg/Uhlhorn 1909, p. 21; Sachsse/Tennstedt 1980, pp. 276 f.

[14] Roestel 1938, p. 30.

[15] "Deutsches Reichsgesetz über den Unterstützungswohnsitz vom 6.6.1870", see in detail: Arnoldt 1872. This Act was extended to the German Empire in 1871. However, the South German states kept to their Poor Laws for some more years.

tes. The federal ordinance, however, provided for communal cost sharing according to local tax revenues.

The law of 1870 had given rise to a controversial debate on the relationship between the different German states and on the distribution of responsibilities between the central state and the local authorities.[16] The idea of applying Prussian legislation only on an interstate level was not realized. Instead, the overall acceptance of free mobility was supposed to strengthen the economic unity of the nation. Thus the central authority evolved to become the main agent of welfare politics.

III

Switzerland[17] seems to be a particularly fascinating illustration of what might be called a "Europe en miniature". Firstly, the Constitution of 1848 granted freedom of settlement to all Swiss citizens without disposing of any competence in welfare policy. Secondly, public welfare institutions varied enormously within and especially between the cantons.

Glarus and Bern might serve as representatives for welfare policy *within the cantons*. The former reflects Eastern Switwerland, a bias towards public welfare policy and assistance in the community-of-origin. The latter reflects Western Switzerland, a bias towards private welfare spending and assistance in the community-of-residence (territoriality principle).[18] *Glarus* introduced a voluntary "love tax" (Liebessteuer) in 1840. Besides, there existed a "family tax" (Verwandtschaftssteuer) for paupers' relatives up to the fourth degree. Until the turn of the century the canton expanded the public welfare system: in 1849 the voluntary "love tax" was replaced by a binding local wealth tax of a maximum 0.1 percent. At the same time the "family tax" was reduced. In 1864 the wealth tax was complemented by a revenue tax on wage-earners without wealth, but with more than average income. The "family tax" was restricted to relatives of the first degree in 1878 and finally dropped in 1887. Assistance to the poor generally was a local matter, but the canton provided for annually increasing grants. In 1902, local officials were allowed to subsidize private charity organizations. Former recipients who had attained wealth due to inheritance or gifts in principle had to reimburse public assistance as long as this reimbursement was not considered to be disproportionately harsh in the eyes of the local authorities. As in most Swiss cantons, the home rule was the leading principle for the assistance of non-local poor. In theory, these persons were assisted by their parish-of-origin without having to move. As a matter of fact, however, non-local poor were frequently sent back home or "called home" respectively.[19]

[16] See ROESTEL 1938, pp. 42-50.

[17] For an overview see MUNSTERBERG 1909, pp. 124-132.

[18] See for excellent reference books: WILD 1914, WILD 1919, SCHMID 1914.

[19] WYDLER 1939, pp. 14-20 and p. 86.

The canton of *Bern* in 1846 tried to completely replace public welfare by private charity within a period of four years. Political disturbances and a difficult macroeconomic situation, however, led to a sluggish course of reform. Above all, the foundation of private charity associations failed due to the passiveness of potential contributors who had got used to public welfare policy.[20] Therefore Bern returned to the principle of public assistance in 1857. Moreover, the canton adopted the territoriality principle. Cantonal paupers no longer received benefits from their community-of-origin, but from their community-of-residence. Consequently, the latter had to strengthen local settlement requirements for potential entrants. They started to distinguish between "deserving poor" who were unable to work (Notarme) and able-bodied poor (Dürftige). The former were assisted by the community-of-residence, which was authorized to collect a local tax up to a fixed limit. The latter were maintained by (more or less badly-working) private charity. Only in cases of permanent need did they get access to public welfare. In 1897, Bern once again tried to privatize its welfare system. This time, the procedure was more sophisticated. Local officials were authorized to hand over public welfare to private institutions, but continued to be legally liable to the cantonal government. In most communities, some kind of "mixed economy" was accomplished, i.e. private charity was subsidized and complemented by public spending on welfare.[21]

As far as *intercantonal welfare policy* was concerned, the 1848 Constitution in principle authorized the cantons in article 41 to expel settled citizens from other cantons who became poor. The revised 1874 Constitution strengthened the requirements for legal expulsion. A revocation of settlement and thus expulsion were from now on only legal if the non-local resident had to be assisted "permanently", his parish-of-origin failing to provide for a "decent" recompensation (article 45 III). However, the community-of-residence had to maintain "temporary" paupers. In recompense, the cantons were allowed to determine the right of settlement according to the individual's ability to work and to a proof that the applicant had not been permanently assisted by his canton-of-origin (article 45 IV).

With increasing intercantonal mobility, the net immigration cantons became more interested in a recompensation scheme for the maintenance of temporary non-local paupers. Their numbers used to increase particularly in times of economic crisis. But their expulsion was illegal. The net emigration cantons, on the other hand, were interested in preventing the homecoming of their permanent welfare recipients residing outside. For them, a recompensation scheme represented a favourable deal, if the welfare costs at home exceeded refund costs outside. Consequently, the interested cantons negotiated five "concordats on the place of public assistance" (Konkordate über den

[20] Böhmert 1869, pp. 476-478.

[21] Böhmert 1869, pp. 463, 471, 476-484; Wild 1914, pp. 14, 44-52.

Unterstützingswohnsitz) in 1914, 1920, 1923, 1937 and 1960 respectively. These intercantonal agreements may be characterized by the following common basic features:

— never did all 25 cantons participate, but between ten and seventeen did so;
— persons covered by the concordats (so-called "Konkordatsfälle") had to have spent a minimum period of time in the new community-of-residence. Moreover, they had to fulfil further requirements, for example the ability to work, or a maximum age at settlement date;
— the cantons-of-origin paid assistance for their citizens living outside and covered by the concordat even in cases of their temporary need;
— in recompense, permanent non-local recipients were no longer sent assistance from their original residence. Instead, the two cantons involved shared welfare costs at the place of residence. The stake of the canton-of-residence was higher, the longer the recipient had been living (and thus paying taxes) there before falling into poverty;
— persons not covered by the concordats (the so-called "Nichtkonkordatsfälle") were further treated according to the constitutional provisions after having been assisted temporarily by their canton-of-residence. The definition of the period called "temporary" formed part of the concordats;
— revisions of the treaties used to emerge from a change in the economic landscape. In times of crisis the cantons-of-residence were relieved by tightening the requirements for persons covered by the concordat, by rescheduling cost sharing in their favour and by cutting the defined period of "temporary" assistance for persons who where not covered by the concordat. The permanent threat from bigger cantons to leave the treaty served as a means of pressure for a revision of the concordats.[22]

In 1975 a new article was added to the Swiss Constitution introducing federal competence to arrange an intercantonal recompensation scheme for public welfare. The sending home of non-local recipients was banned (article 48). A federal law in 1979 replaced the last concordat from 1960 and introduced a binding and less complicated reimbursement system for all cantons.

The concordats have not been satisfactory in an overall economic sense. As the welfare recipient was — and still is today under the federal provision — assisted according to the subsistance level prevailing at his place of residence, inefficient migration (e.g. to the more attractive suburban areas) could not be excluded. On the other hand, if welfare recipients had taken advantage of the higher anonymity and the, on average, higher living standard in the bigger towns, their communities-of-origin would have chosen to quit the treaty. Actually, cantonal entry to and exit and from the concordats was fairly usual. This option no longer holds for the federal provision which is legally binding.

[22] See for example Zürich in 1936. THOMET 1968, p. 15.

A provision preventing inefficient recipient migration would have limited recompensation of the canton-of-origin to what would have been spent in the latter. If the cantons-of-residence had been interested in supplementary benefits in order to combat the poverty of its non-local residents, this could have been arranged by public or private supplementary charity. The town of *Basle* at the end of the XIXth century may serve as an example. It institutionalized a division of labour between public assistance in favour of local paupers and private charity in favour of non-local residents. As the latter represented the majority (in 1910, 38.4 percent of all residents were foreigners and 29.2 percent non-cantonal residents),[23] private charity represented more the general rule than an exception. Thus, a public granting system favouring private charity was introduced in 1897. Besides, the foreign charitable organizations, especially the German Charitable Association ("Deutscher Hülfsverein") played a senior role. The German association was represented in thirteen cantons and funded by Germany (10.7%), by the local public welfare authorities (31%), by members (24.1%) and finally by charity bazaars.[24] In the town of Zürich, finally, non-local paupers who had been living in the canton for ten years with a good reputation were no longer expelled after 1878 according to the will of the local population.[25]

[23] WILD 1910/1911, pp. 3 f.; GUBLER 1917, p. 113.

[24] WILD 1914, pp. 260-270, especially pp. 260 f. Calculation for 1912/1913. For further information see: BÖHMERT 1869, pp. 488 f.; SCHMID 1914, pp. 164-182.

[25] WILD 1914, pp. 27-44, expecially pp. 35 f.

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