

II. Social Protection in the Middle Ages and in the Early Modern State: Alms, Poor Relief [*Armenpolizei*], Care, Social Help

1. Christian Poor Relief

Providing material and immaterial care to the poor, the elderly, widows, and orphans, out of pity or a sense of moral-religious obligation, has become the socio-ethical norm and praxis in nearly all cultures. However, Christianity placed a special emphasis on this obligation from the outset,¹ and it shaped the picture of both individual and corporate practical altruism through multifarious and venerable institutions and activities (Liese 1922; Isensee 1995, §59). For the churches, to use the words of the Federal Constitutional Court, “the fulfillment of the works of altruism through the gift of the individual member of the church is an essential part of the practice of the Christian religion,” that is to say, it is a “fundamental function of the church.”²

The dominant place of religion and the church in the public and private life until well into the nineteenth century was thus mirrored by the important role that Christian poor relief and care for the sick played vis-à-vis efforts to relieve suffering that were driven by secular motives (Uhlhorn 1895; Ratzinger 1868; Neukamm 1987, pp. 610–618). However, that role changed gradually in the wake of the slow rise of secular powers since the thirteenth century. Just as military conquest and religious mission had been constantly interconnected since antiquity and the Early Middle Ages, with the former sometimes leading the way and

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¹ For example: Mt. 5.43ff; 7.12; 10.40ff.; 22.37ff.; 25.40.—Mk. 12.29ff.—Rom. 13.9f.; 1 Cor. 13.—1 Jn. 4.11.

² BVerfGE 24, 236 (248). This line of court decisions has not changed since. See Hollerbach (1981, pp. 218–283, esp. 225–227). However, in recent years emphasis has been placed on the obligation to “the law that applies to all” (Art. 137 III WRV) and on the need for stronger state control over a multitude of faith-based activities.

sometimes following, secular powers during the European Middle Ages pushed increasingly into spheres that had previously been a matter of the church (Padoa-Schioppa 1997). As population density increased, poverty became a problem also for urban and territorial authorities. The latter not only recognized the socio-revolutionary potential of poverty, they were also interested in a settled and prosperous population for reasons having to do with the ability to control their territories and exact a steady levy of taxes and dues. Beginning in the sixteenth century, these authorities began to take initiatives legitimized by the claims that it was their duty to ensure “good order” (Maier 1980; Palme 1991; Gömmel 1991; Stolleis 1996; Jütte 1995). While this order was grounded in Christianity, it also contained from the outset admixtures of secular purposes. The emerging early modern state increasingly emphasized these worldly purposes, eventually using Christian terminology merely as a rhetorical garb for its directives. The more the state succeeded in disciplining the poor and itinerant strata through the intensified use of its “good governance” [*Policey*] (Schlumbohm 1997), the more the state itself gained orderliness and the power to exert control. These worldly goals gradually marginalized the religious approaches. At the end of the eighteenth century, the church’s work of charity was left with only an auxiliary function. The emphases did not shift again until the nineteenth century, which, under the banner of liberalism, pursued the withdrawal of the state from “welfare work.”

In the countryside, the itinerant and the local poor could—since the early Middle Ages—turn to the monasteries for help. The latter were not only centers of education and culture, but also constituted the economic strongholds of entire—still thinly settled—regions. In the cities, with their internal social and legal differentiation that had been slowly evolving since the eleventh century, the problem of supporting the poor was distributed among various institutions. First, monasteries were also found in cities, sometimes within the walls, sometimes outside (plague and leper houses). Second, possibilities of distributing alms developed through the urban churches and the donations they received from the laity with the stipulation that the funds from the donations be used not only to read masses, but also to help the poor. The more “citizens and councils” emancipated themselves from their overlords and regulated the affairs of the community autonomously as the city’s authority, the more the social institutions also became a matter for the secular government.

2. The Early Modern State and the Church

The crisis of the church in the fifteenth century and the emergence of a pre-Reformation, secular church governance were interrelated. The rule of the princes that was slowly taking shape moved into the vacuum of political order created by a church that was quarreling and marked by secularization trends. This trend, already visible before 1517, erupted fully when confessional fragmentation gave rise to sub-churches that had to lean on secular powers to ensure their survival.

In the course of the Reformation and the religious wars of the sixteenth century, territorial lords and cities, in a “first secularization,” confiscated church property on a massive scale and redirected it into the school system and poor relief (Kreiker 1997). With this, the responsibility for social problems also shifted. It was now the city authorities and the territorial ruler who were admonished by theory and urged by praxis to take the initiative against poverty, and to make sure that the burden of poverty was diminished and transformed into productive labor. This shift of the point of reference from the medieval church to the early modern state demonstrates that this “state” did not appear one day ready-made and took on certain tasks. Rather, we are dealing with a process—nearly imperceptible to contemporaries—by which responsibilities, competencies, and material means were transferred. What is called the “state” from about the middle of the seventeenth century (Weinacht 1968) is a political entity that took shape gradually in response to the shortcomings of competing powers (church, nobility, estates), and which created its ways of acting by doing. Especially after the exhaustion from the religious wars in France and Germany, all relevant political forces pushed for a concentration at the monarchical head of the state, as a way of overcoming the economic and social misery of the states through more intensive legislative activity. In other words: henceforth, fighting poverty became a task of the state, whose apparatus and capabilities, however, were still in the formative process (Schnerer 1979, pp. 55–99).

These shifts from the religious to the secular side were based on changes in collective consciousness that had been in the works since the thirteenth century. At the same time, they brought about these transformations only after the fact, which means that the awareness registered late what had already happened. One of the great changes in European consciousness is the gradual emergence of the person as an autonomous entity. Beginning at this time, the individual was recognized as such because he spoke with his or her own voice, and he was able to speak more and more because his intellectual and material realms of action were expanding. Slowly, he became responsible for the conduct of his life before God and his fellow humans.

By leaving the anonymity of the collective, the individual also became the object of intervention for all efforts of improvement undertaken by the church and the worldly authorities. If the individual is in principle the master of his own fate in both this life and the next, he must exert himself in every way. Should he fail to walk the straight and narrow path, he must bear the consequences, and should he fail, all he can hope for is “mercy.” With this, the notions about the role of work underwent a fundamental change (Schuck 1995). “Labor and pain” were now interpreted increasingly as punishment imposed by God after the Fall. At the same time, however, they also appeared as the most important worldly means to combat vice.³ *Müßiggang ist aller Laster Anfang* [“Idleness is the beginning of all vice”]

³ Especially pronounced in Wenzel Linck, *Von der Arbeit und vom Betteln. Wie man der Faulheit zuvorkommt und jedermann zur Arbeit anhalten sollte* (Zwickau, 1523). Quoted in Sachße and Tennstedt (1980, pp. 59ff.).

is a common proverb in Germany. As a result, there now began a systematic poor policy on the part of the authorities, who were deeply convinced that a person could be brought onto the right path through a combination of solicitude and strictness. This meant that a moral differentiation had to be drawn between native and foreign poor, between those who had caused their own misery and those who had not, between those able and those unable to work. The *police orders* (Stolleis 1996; Härter and Stolleis 1996, vol. 1) that were enacted in all German towns and territories, indeed, throughout Europe, contained a considerable—and until the late seventeenth century steadily growing—number of decrees regulating poverty, alms-giving, and the expulsion and punishment of foreign beggars. The general accepted goal of a state, “*gute Policey*” [good public order], also encompassed care for the poor. However, the emphasis shifted increasingly from the religious motivation behind alms to regulation by the secular authorities, to the suppression of private alms-giving in favor of a disbursement of aid concentrated in the hands of the now emerging “state.” In cities and town, this was done through the creation of a “General Fund for the Poor and Alms” [*Allgemeiner Armen- und Almosenkasten*] (Jütte 1984). Alms became an instrument of the state; they were subjected to worldly purposes and used to discipline the recipients. Henceforth we also find a poor administration with an *Armenvogt* [an official charged with ensuring good order], and *Armenbuch* [Poor Book], which took hold of this area of individual charity and subjected it to bureaucratic rules. The subjective gift of alms, prompted by compassion and piety, no longer seemed reliable enough. It is a private decision dependent on the mood of the giver, and can no longer be counted on from an institutional perspective. What emerged alongside the charitable gift was the state that was neither compassionate nor pious, what Hobbes called “the artificial man,” for whom poverty was a source of undesired migration, social disorder, and criminality.

The more the state’s administrative apparatus developed and solidified, the more it also took on repressive traits in the period from the sixteenth to the eighteenth century (Wright 1977). Beggars turned into a marginal group that deserved to be combatted. The lines demarcating criminality remained blurry. And the authorities were not interested in making those lines any clearer, lest they unnecessarily constrain their possibilities of intervention. The impetus for precise lines of demarcation emanating from the modern state governed by the rule of law, which the bourgeoisie had to wrest from Absolutism in the eighteenth and nineteenth centuries, was still entirely absent at this time. At any rate, two large groups took shape, which were in turn subdivided: first, the honorable own citizens, the non-excluded *Hausarme* [“house poor”], and the honorable outsiders (travelers who have fallen on hard times, journeymen on the road, whose care was the duty of the guilds). Second, the itinerant, ragged class of former soldiers, gypsies, vagrants of every kind, down to the clearly “harmful folk,” that is criminal individuals or gangs. The second group was unwelcome in every regard: not only because of the threat to material possessions, social peace, and the uncontrolled outflow of monetary funds, which would then be unavailable for the *Hausarme*, but

also because of health policy, since it was well understood that diseases could be “introduced.” To that extent, the drawing of a line to the outside world was clear.

The state, which was not able to make poverty disappear, now pursued increasingly a dual strategy: external defense and discipline through work internally. Inclusion of one group and exclusion of the other complemented each other. Who was part of which group was determined by criteria of utility and by characteristics that defined the “outsiders” in authoritative terms. “Borders” emerged against the outside world and “border officers” were needed; signs warned vagrants of every kind not to enter the territory. The “border policy” toward the “itinerant folk” provides a window onto the great historical process of the early modern period, the emergence of the territorial states that ruled a swath of land with subjects and therefore intensified its border demarcations. Governing this land, warding off all outside influences, was now one right of (external) “sovereignty” (Quaritsch 1986; Stolleis 1997). That the insistence on non-intervention from outside was combined with the practice of deporting undesirable across the borders was, of course, inconsistent behavior, but it was dictated by the selfish self-interest of freeing at least one’s own territory of these burdensome people (Schott 1978; Schubert 1983; Schulze 1988).

By contrast, internal sovereignty was directed toward the subjects. According to the general belief, it was the duty of the authorities to encourage people to be diligent, thrifty, and lead a well-ordered Christian life. “Work” took on a new dimension. It became a demonstration of earthly fitness and the precondition for salvation from guilt. A person who did not work even though he was able-bodied was wasting his gifts and committing a sin against his fellow citizens. As a result there was now a duty to work, at least for those individuals who were subject to the reach of the administration.

This long arm of the administration was ambivalent. The markers that had originally been used to identify the deserving poor were slowly transformed into a stigma (Roock 1993, p. 68f.). Every act of registration became a preliminary step toward exclusion and marginalization. The desire to transform “useless” persons into useful one led to public work projects, the establishment of “useful institutions,” or to expulsion. The emerging cameralistic and mercantilist economic theory emphasized a high level of domestic productivity, the processing of native raw materials, and independence from imports. Subjects were supposed to be hard-working, pious, and moderate, and after wars they should also contribute to “peopling” the land. Preaching was done in this spirit, and beggar and vagrant codes were enacted. In the seventeenth and eighteenth centuries, houses of correction and work were added, drawn from British and especially Dutch models (Howard 1780, 1784, 1791; Kleinschrod 1789; Wagnitz 1791–1794; Saam 1936; Peitzsch 1968). They took in all those subjects the authorities deemed problematic and “in need of correction,” but economically usable. That included convicted criminals, and this soon led to a stigmatization of houses of correction and work as a feared penal institution. The place of strict pedagogy was now taken by the exploitation of labor and the idea of deterrence. The construction of fortresses and castles also absorbed entire armies of such forced laborers.

All these measures were essentially born by the early modern princely state. As the political and economic power shifted from the Empire and the cities to the territories in the second half of the sixteenth century, the competencies and practical efforts to contain the socially harmful consequences of pauperism also migrated there. The place of urban beggar codes and Imperial Statutes (1530, 1548, 1551, 1577) was taken by territorial “police codes,” which codified the regulatory intentions of the estates and the respective territorial churches, and of the territorial lord. Territorial *policey* now evolved into the most important motor of social engineering through commandments and prohibitions. Its goal was the elimination of abuses and the establishment of “good order” in the city and the countryside, in the market and the home. The early modern doctrine of the purpose of the state, here applied to social reality, included almost without saying measures of social protection in the form of goals, concrete recommendations, directives, and prohibitions pertaining to doctors and apothecaries, public cleanliness and health, the regulation of begging and alms, the duty to work for “strong” beggars, the expulsion or turning away of foreigners at the borders, conscription into public works, and the use of a variety of means of punishment and deterrence (Härter and Stolleis 1996; Simon 1998; Schilling and Schuck 1999).

Of course, the hospitals and other institutions to support the poor in the cities continued, as did the monasteries and ecclesiastical foundations (Reicke 1932; von Moeller 1906, reprint 1972; Jütte 1996). But the sphere within which the towns and the church were active was shrinking and fell completely under state control. As it was, in Lutheran and reformed territories, the territorial rulers’ sovereignty over the church had led to a close alignment of the tasks of the state and those of the church. The Protestant consistories or ecclesiastical councils were state bodies with religious tasks. The visitations they carried out extended not only to the state of pastoral care, but also to “moral discipline,” drinking and gaming, dress codes, work ethic, and much more.

The reach of “enlightened Absolutism” in the eighteenth century reduced the church’s sphere of action also within Catholic territories. In the name of reason, feast days and church customs were now abolished, in Austria during “Josephinism,” in Bavaria during the era of reform between 1799 and 1817. Everywhere one could discern pressure from the state to boost the productivity of the land, bind the largest possible number of the vagrant population to work, and discipline them toward a behavior model of the lower middle class with a combination of punishments and pedagogical measures. Especially the manufactures, the proto-industrial precursors to the nineteenth-century factories, seemed well suited for this purpose: not only did they contribute to the national wealth, but the functioning of the division of labor they practiced required the virtues of hard work, moderation, and punctualness (e.g. de Mandeville 1968, p. 286; Macfarlan 1785; Marperger 1733). There is thus much to be said for the above-mentioned thesis, namely that the social disciplining of the Early Modern Period (the paradigm associated with the names of Norbert Elias and Gerhard Oestreich [Schulze 1987]) contributed to preparing the workers for the industrial age. This is particularly evident, for example, where the religious energies of Pietism and the Enlightenment

combined with the techniques of the manufacture system, as in the orphanage that August Hermann Francke (1663–1727) founded in Halle (von Willard 1997). There, the Christian-motivated blend of poor relief, schooling, and mission within the context of the Enlightenment took on traits of the large industrial enterprise. Still, such endeavors revealed the general lack of a “poor policy” that subsumed the state and the church more so than they were able to remedy it.

3. The Transition to the Nineteenth Century

As the image of the state became de-mythologized, a process encapsulated in the sober notion of the social contract that was freely entered into and could be dissolved *in extremis* (Badura and Hofmann 1965; Röhrich 1972), there also grew within the social sphere the optimistic belief that social conditions could be engineered and altered. Under the specific conditions of the Enlightenment in Germany, impulses for social activism came from the educated middle class, for example the reform of poor relief in Hamburg in 1788 (Lindemann 1990; Duda 1982), and from within the sphere of enlightened Absolutism from the top echelons of the state administration. The *Allgemeine Landrecht* [General Law Code] for the Prussian states, which, to be sure, was overtaken and nearly undone by a policy of restoration by the time it took effect (1794) [Schwennicke 1993], for the first time recognized a general obligation to care for the poor in the sense of a “state task,” and derived from this the right and duty of the state “to take measures by which the destitution of its citizens could be preempted and excessive waste regulated” (ALR, II, 19, §6). Where special poor funds did not exist, the communities were obligated to support their citizens through the “local poor associations” [*Ortsarmenverbände*]. Where no local citizenship relationship existed, as in the case of the “land poor” [*Landarme*], the state assumed the burden of care through *Landarmenverbände*, their institutions for *Landarme*, and through other installations. Anyone who did not belong to the local poor or the land poor was—as during the previous two centuries—deported across the borders.

Count Montgelas, the minister in charge of these matters in Bavaria, reorganized the poor system in that state along similar lines shortly before this political downfall (1817). He imposed upon local communities “the duty of public care for the poor,” though he simultaneously declared that “all subjects resident in and native to a care district [*Pflegebezirk*], without exception” were obligated “to participate proportionately and contribute to regulating the need of the poor.”⁴ Of course, the “voluntary charity of individuals” was permitted in addition, “although it must not detract from the general obligations of everyone toward the care of the poor by

⁴ Decree concerning the system of poor relief, dated November 17, 1816, *Kgl. Baierisches RegBl.* 1816, p. 780, Article 1.7.

communities and district, or run counter to the decrees regarding begging.”⁵ The sovereign state of the early modern period thus retained the overarching competence, and from this position it was also able to guarantee that the institutions of charitable welfare remained untouched and could develop. In Bavaria, this happened shortly thereafter in the Constitution of 1818 (Titel IV, §9).

The initial moves toward elevating all of social policy into the duty of the state, which was evident also in other German states and represented the late political fruits of the Enlightenment and the legislation of the French Revolution regarding the obligatory care of the poor by the state, were lost again at the beginning of the nineteenth century in the battle of the bourgeoisie for participation in political power. With freedom of the soil and liberation from feudal dues (Hedemann 1930; Stolleis 1976), freedom of trade (Steindl 1984; Ziekow 1997, pp. 140ff.), public legal proceedings (Fögen 1974; Alber 1974), and freedom of the press, freedom of association, and freedom of assembly absorbing the mental energy, and the industrial proletariat—later so threatening to the bourgeoisie—not yet representing an organized force, there was little room left for reforms of the system of poor relief. And the contemptuous dismissal of the Enlightenment and its pedagogical efforts to “improve humankind” did the rest.

The waning of Enlightenment optimism, the absorption of domestic politics by the constitutional question, and the beginning of the industrial revolution resulted not only in a reduction of the overall extent of poor relief, but also in a narrowing to the purely material questions of need. Enlightenment’s central idea, to remedy unfortunate circumstances long term through the application of pedagogical reason, was now looked upon with the distrust of those who either opted for individual self-help or trusted in the inner dynamic of the historical “development.” Similarly, the early liberal state did not accept health care as a social task of the state. At most, it chose to take freedom-restricting measures where conditions were contrary to the entrepreneurial ethic and produced lasting health effects that were eventually noticed by the army’s recruiting boards. The beginning of occupational health and safety legislation through the prohibition against child labor in Prussia (1839) was driven by these premises, though it was also intended to lend a hand to the older and now intensified efforts to implement obligatory school attendance.⁶

The poor laws enacted by the various German states before and after 1848 made only minor changes to the basic framework taken over from Absolutism. There were improvements on the local level, for example, by activating voluntary *Armenpfleger* [visitors to the poor], as in the so-called “Elberfeld System” after 1817 (Münsterberg 1903; Sachße and Tennstedt 1980, vol. 1, p. 214, 1988, vol. 2, pp. 23ff.). Other than that, the effort was made to keep pace with social change by adapting the competency regulations: while the problem of “vagrants” had been paramount in the sixteenth and seventeenth centuries, the poor laws of the late

⁵ Ibid., Article 24.

⁶ “Regulativ über die Beschäftigung jugendlicher Arbeiter in Fabriken v. 9. März 1839,” *PrGS* 1839, 156. On this see Gladen (1974, pp. 12ff.), Mors (1986, pp. 217–229).

eighteenth century could posit a fairly immobile subject against a backdrop of better material conditions. This was still an essentially agrarian and small-town world with little fluctuation. The residents of towns and the countryside, to the extent that they belonged to the third estate, were bound to their localities—that is, they were assigned to a given community—through guild regulations, serfdom, and manorial and feudal structures. In many cases they needed a special permit to become mobile at all. Under these conditions it made sense to link the right and duty of support to the criterion of *Heimatrecht* [right of residence].

However, the perspective changed again with the reforms of the Confederation of the Rhine and Prussia's defeat in 1806. The estate-based society was broken open and was gradually levelled out into a national community formed by the third estate; although differences of estates still existed within this community, they were now under pressure to justify and legitimate themselves. After 1789, the ideas of universal equality and freedom were here to stay. Anyone who wished to restrict them needed special legal titles to do so, and these lay increasingly in the laws passed by the new parliaments. In the *Vormärz* period, these parliaments saw themselves less as legislative organs and more as guardians over the "rights of the people." The freedoms of religion and confession, opinion and the press, assembly and association, were joined by demands for commercial freedom, freedom of the land, freedom of movement, tax equity, and the abolition of the privileges of the nobility and the church. This was the transition to the civic society, which sought to retire Absolutism with its patronizing "law and order policy," primarily in questions relating to the economy and private life, and secondarily also with respect to political participation. The emerging industrial society wanted mobility of capital, a market for land, and people who migrated into the industrial regions or commuted across the borders as seasonal workers. With the acceptance of commercial freedom and freedom of movement, and the abolition of serfdom and manorial dues, the local residency principle as the underpinning of aid to the poor became increasingly questionable. Shifting responsible to the place of origin, which a person had left precisely because of the poor conditions there, created unsolvable problems. Poverty had to be borne where it emerged. A compulsory repatriation of the poor was now out of the question. In 1851/1853, the members of the German Confederation agreed to remedy the difficulties in expelling the homeless poor through reciprocal pledges and to regulate medical care for sick and burials for deceased *Landfremde* [outsiders].⁷ The place of the *Heimatprinzip* was increasingly taken by the *Unterstützungswohnsitz* [residential right of relief]. It was recognized in Prussia in 1842, in the North German Confederation in 1870, and extended to Württemberg and Baden after the founding of the *Reich*. Alsace-Lorraine was added in 1910, Bavaria in 1913.⁸ The more the internal German

⁷ The Gotha Agreement of July 15, 1851, in von Meyer (1859), pp. 582ff.; additional references in Zacher (1993, p. 433).

⁸ Prussia: *PrGS* 1843, 8; North German Confederation: *BGBI. des Norddeutschen Bundes* 1870, 360, extended to Württemberg and Baden through the law of April 16, 1871: *RGBl.*, p. 391. Final version in the law of July 7, 1908. See also Hesse (1971).

borders dissolved in the unification process and a uniform legal sphere with legally guaranteed freedom of movement emerged,⁹ the more the previous deportation of the foreign poor across territorial borders ceased. Not only the feeling of nationhood argued against deportations within Germany, statistics and the cost-benefit analysis also showed that it was more cost-effective to treat all Germans in all federal states as locals. As a result, the time a person would have to spend in any given location before becoming eligible for support also grew shorter during the nineteenth century: originally it was set at 7, then 5 years; in 1869 it was reduced to 2 years, in 1908, finally, to 1 year. Such obstacles were no longer compatible with a mobile industrial society.

As before, the states, not the *Reich*, were responsible for setting up the system of poor relief. However, the social conditions of the Ancien Régime were still reflected in the old distinction between *Ortsarme* [local poor] and *Landarme* [poor of the land], a distinction that was rooted in the separation of the medieval city with its own law from the countryside with its law, though now it referred to those who had a residential right of relief and those who did not. Thus, there was a local Charitable Union [*Armenverband*] which combined the competencies for one or more communities or manorial estates [*Gutsherrschaften*], and the territorial Charitable Unions [*Landarmenverbände*], whose expenses, as in Prussia, for example, were borne by the province. This old distinction is still evident today in the jurisdiction of the *Landkreise* and in the distribution of competency between local and supra-local tasks of social aid.

Again following tradition, a binding stipulation about the nature and level of aid was avoided. That the poor had no subjective-legal right to poor relief that was actionable in court went without saying. As a Prussian law stated: "A poor person can never assert a claim to support against a Charitable Union through legal avenues, but only with the administrative authorities, whose task it is not to grant claims that exceed the necessities."¹⁰ However, the same law spoke very clearly about "public support that must be granted in cases of need." It recognized that the state had an objective duty to act.

Characteristic for the state of poor laws before the founding of the *Reich* is the Bavarian law of 1869 that dealt with public poor and sick relief.¹¹ Public poor relief was supposed to support the needy and counter pauperization; it was a communal task. What was granted, only in cases of "demonstrated need," was the subsistence minimum, sick relief, a pauper's grave, and the "necessary educating and training" of poor children. These services were subsidiary and secondary to aid from family members and from charitable poor relief. Recipients of this aid were also obligated to work; conversely, communities were obligated "to create the institutions that are

⁹ "Gesetz über die Freizügigkeit vom 1. November 1867," *BGBI. des Norddeutschen Bundes* 1876, 55–58.

¹⁰ "Preußisches Gesetz über die Verpflichtung zur Armenpflege vom 31 Dezember 1842," *PrGS* 1843, 8, §33.

¹¹ Bayerisches Gesetzblatt 1868/1869, pp. 1093ff.

indispensable to local poor relief,” or to enter into appropriate agreements with charitable welfare organizations. For the sick, there were to be sickness funds either within larger enterprises or on the community level. Likewise, there is evidence of the first steps toward state job placement and “assignment of work” to “able-bodied persons who, in spite of serious efforts, were unable to find gainful employment.”

Although the nineteenth century had to wrestle with the problems of population growth, pauperism, internal migration, and industrial poverty on an unprecedented scale, it did not succeed in reforming the system of poor relief in any profound way (Münsterberg 1887; von Reitzenstein 1887; Roscher 1894). There are a variety of reasons for this. In the first half of the century, the emerging bourgeois society was largely preoccupied with removing the impediments to individual freedom. The political, religious, economic, and social rights of liberty for human beings and citizens were the central political goals, which activists were hoping to enshrine in inviolable constitutional guarantees and political norms (Stolleis 1992, pp. 56ff.). The comprehensive law-and-order policies of Absolutism were now denounced almost unanimously as representing patronizing and excessive government—of course, more in theory than in administrative praxis, which continued to have an interventionist bent. “Law and order” was now to serve essentially only defense against danger (Preu 1983). However, this early-liberal goal soon saw the return of welfare state elements, the more observers recognized that the withdrawal of the state to a night watchman role could imperil its own existence. The constraints on manorial estates, landownership, and in guilds were to be eliminated—and they did disappear, though the trades, at any rate, recaptured a protective position backed by public law in the course of the nineteenth century (Chamber of Trades, master exam, register of qualified craftsmen). A uniform law of property and contracts was sought but only partially achieved, for example, in the case of landed property through the redemption of the *Grundlasten* [basic impositions on the land] over two generations (Habermann 1976).

Because the administrative and mental structures of the eighteenth century thus radiated well into the nineteenth century, specifically in the reform bureaucracies of Prussia and Austria, as a result of which we can certainly speak of a welfare state undercurrent within the dominant liberalism, the system of poor relief did not change in principle. The political pressure to abandon the existing structures was not strong enough. The system of poor relief in its traditional form was not able to deal effectively with “pauperism,” but since an organized workers’ movement did not yet exist, the problem could be pushed to the margins for the time being. As it was, increasing the mobility of the population toward the industrial centers, which was welcome, was not to be slowed by local measures of support. The rapidly growing rural population could not be supported; rural workers flocked to the cities, where the trades were already suffering from overcrowding. It was only after the middle of the century that the bourgeoisie can be described as prosperous, while the situation of the proletariat continued to deteriorate before 1848. The slow improvement in material conditions in the course of the nineteenth century had not only a quantifiable economic side to it, but also one of subjective feelings. The two sides did not necessarily change in lockstep, and it would appear that the sense of being

excluded persisted longer. The poor, as the lowest stratum of the proletariat, continued to be discriminated against throughout the century politically and in term of social ethics; it manifested itself also in the loss of active and passive suffrage by the recipients of poor relief,¹² a perfectly natural step for theoreticians of early liberalism, who argued that only the person who contributed something to the state could participate in shaping it.

The latent domestic political pressure of the social question led at most to local improvements in the state system of poor relief. Of course, one of the reasons behind this relative stagnation was also that the poverty of the early nineteenth century for the most part manifested itself in the countryside, that is, it was geographically spread out, did not become a revolutionary threat, and could also be hidden more effectively. Moreover, observers noted that the excess population that had fallen onto hard times could be reduced through emigration (Conze 1962; Koselleck 1967). All this was in line with contemporary theory: Robert Malthus's *Essay on the Principle of Population* (1798) had been first translated into German in 1807 and was making quite an impression.¹³

Even if the state did not change the system of poor relief in any real sense before 1848, what did change was the increasingly self-aware society. The more it constituted itself as a civic society separate from the state, the better were the chances for the growth of voluntary social activities. The tradition of civic, mostly urban philanthropy had medieval roots, but beginning in the eighteenth century it grew into a new dimension of sometimes religiously, sometimes more pragmatically motivated concern with the lower classes, whose condition aroused compassion, but increasingly also political fears. Now there emerged aid association during wars and epidemics, as well as in misery-stricken regions of mining and industry. They distributed food, set up soup kitchens, orphanages, and warming rooms, supported women in childbed, looked after neglected youths and released prisoners, fought against alcoholism (Pauli 1838), or organized saving. The most diverse "Associations," "Aid" and "Relief Organizations"¹⁴ came into being and formed a "social structure" (Nipperdey 1976, pp. 174–205). The system of Associations and Cooperatives, with its enormous importance to the self-organization of civic society, provided the legal framework also for the private initiatives in poor relief (Hardtwig 1997). It is no coincidence that in this climate, "self-government" (local

¹² See §35 Constitution of Baden of August 22, 1818, in the version of August 24, 1904; §142 of the Constitution of Württemberg of September 25, 1819, in the version of March 26, 1868; §2, Section 3 of the Reich Suffrage Law of April 12, 1849; Article 67 of the Prussian Constitution of December 5, 1848; §3 of the Electoral Law of the Reichstag for the North German Confederation of May 31, 1869. All of these can be found in Huber (1978/1986). An overview in Aeppli (1988).

¹³ Malthus (1798). First German translation: *Versuch ueber (not über) die Beendigung und die Folgen der Volksvermehrung* (1807).

¹⁴ For example: "Centralverein für das Wohl der arbeitenden Klasse" (since 1844), "Verein gegen Verarmung und Bettelei" in Gablonz (Bohemia), which shaped the so-called Gablonz System of poor relief, and the "Deutsche Verein für öffentliche und private Fürsorge" (1880 ss.) in Frankfurt am Main.

communities, universities, trades, churches, social insurance) becomes one of the dominant words of the nineteenth century (Heffter 1969; Stolleis 1990). Since the majorities were middle class associations, the secondary political goal was more or less to keep workers away from the “temptations of Communist or Socialist agitation.” This dual motivation was readily apparent: “A part of the bourgeoisie is desirous of redressing social grievances, in order to secure the continued existence of bourgeois society. To this section belong economists, philanthropists, humanitarians, improvers of the condition of the working classes, organizers of charity, members of societies for the prevention of cruelty to animals, temperance fanatics, hole-and-corner reformers of every imaginable kind” (Marx and Engels 1969, *Manifesto of the Communist Party*, part 2). The competition of the early socialist self-help organizations with their bourgeois counterparts was thus also driven by the political struggle for the allegiance of the working class.

Alongside “private charity” stood that of the churches, especially in the second half of the nineteenth century (Sachße and Tennstedt 1980, pp. 227ff.; Becker 1991). Supported by Romanticism and political restoration, the Catholic Church survived the shock of the secularization of 1803 through a respiritualization and a reinvigoration of charitable work through the combined commitment of priests and laity to organize the care of the sick and needy and provide help to women and children, the homeless, and migrant workers. The most important areas of activity for the Caritas associations, the St. Vincent de Paul organizations [*Vinzenzvereine*], Catholic journeymen associations [*Gesellenvereine*], ecclesiastical orders and foundations were care of the sick, education, and the running of homes (W.E. v. Ketteler, A. Kolping; Iserloh 1975). The “*Volksverein für das katholische Deutschland*” [National Association for German Catholics] was set up in 1890. The “*Caritasverband für das katholische Deutschland*” [Caritas Association for German Catholics], established in 1897 by Lorenz Werthmann, for the first time combined the social welfare activities of the nineteenth century on the Reich level (Buchheim 1972). This organization continued to grow slowly until the World War (Wollasch 1978, pp. 1ff.). In addition, the Catholic workers’ movement had taken shape in the second half of the nineteenth century. Its crucial manifesto was Pope Leo XIII’s encyclical “*Rerum novarum*” of 1891 (Huber and Huber 1983, vol. 3, no. 126).

Developments on the Protestant side paralleled those on the Catholic side. Here, too, older foundations and charitable organizations from the eighteenth century were carried on. The Halle Orphanage (1695) continued to exist. Other initiatives were added in the early nineteenth century through the so-called Revival Movement: the Kindergarten appeared (J.F. Oberlin), along with youth aid, support for education, prisoners, and migrant workers (Th. Fliedner, J.H. Wichern), homes for epileptics and the mentally ill (F.v. Bodelschwingh), and much more. Leaders in the professionalization of socio-pedagogical and care-taking professions were Johann Heinrich Wichern (1808–1881) with the “*Rauhes Haus*” in Hamburg-Horn (1833) and the “*Johannesstift*” in Berlin (1858), which were devoted to care of young people, and Theodor Fliedner with the founding of the “*Mutterhausdiakonie*” [charitable organization of maternity houses] in 1836 (Beyreuther 1962, p. 88; Heidenreich and Kohlmann 1983; Becker 1983). It was also Wichern who, in

1848, founded the “*Centralausschuss für die Innere Mission der deutschen evangelischen Kirche*” [Central Committee for the Inner Mission of the German Protestant Church], at that time still outside of the official churches of the states, which did not yet have an umbrella organization (Wichern 1849; Röper 1998). The Protestant workers’ movement developed along similar lines, culminating in 1890 in the formation of a “*Gesamtverband der Evangelischen Arbeitervereine Deutschland*” [Umbrella Organization of the Protestant Workers’ Associations in Germany] (Huber and Huber 1983, pp. 314ff.). Finally, 1917 saw the founding of a “*Zentralwohlfahrtsstelle der deutschen Juden e.V.*” [Central Welfare Bureau of German Jews] (Scheller 1987).

To this day, strong impulses for state social legislation have come from the two large confessions. The Kindergartens, children’s and old-age homes, care and nursing homes, schools, hospitals, and many other institutions set up by the Catholic and Protestant sides have provided models for both the official churches and the state. The same is true of the welfare and educational organizations that emerged out of the workers’ movement, though it was not until December 1919 that they combined to form the Social Democratic “*Arbeiterwohlfahrt*” [Workers’ Welfare], on the initiative of Marie Juchacz (1879–1956) (Miller 1974).

To the extent that this work was pioneering, it was later in part equalled and overtaken by the state (for example in the area of hospitals), and in part it took on a permanent function of providing relief and acted as a supplement to state activities. In many areas, initiatives from voluntary charities, the churches, and the state stand side by side. To this day there are mixed forms in which the work on the ground is done by personnel from the churches and other social groups, while the state exercises a certain coordinating and security function.

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