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Book Review

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Charlesworth, Lorie. *Welfare's Forgotten Past: A Socio-Legal History of the Poor Law*. New York: Routledge, 2010. 234p. \$125.

Reviewed by Chad J. Schatzle

¶23 *Welfare's Forgotten Past: A Socio-Legal History of the Poor Law* is a timely reminder of society's legal duty to the poor. In an era of global economic turmoil, with recent welfare reform and heated debates over the extension of unemployment benefits here in the United States, it is easy to forget that laws for the relief of poverty have roots reaching back more than 400 years. Author Lorie Charlesworth, Reader in Law and History at Liverpool John Moores University, focuses her book on the *poor law*—a historical, English system derived largely from the seventeenth-century laws of settlement and removal, which provided support for the settled poor within their home parishes. Charlesworth carefully notes that modern welfare law and the poor law are not the same. Modern welfare law is administered on a national scale by a central agency funded through general taxation, while the poor law, until 1865, involved “local autonomy, local financial obligations, duties and responsibilities with *ad hoc* relief patterns” (p.3). Nonetheless, her work demonstrates an important but overlooked point, that the “[p]oor law was law” (p.1), and the book emphatically asserts that this law, “an immediate personal legal right to relief . . . possessed by the settled poor” (p.202), “has been consistently undervalued, marginalised, denied and, finally, forgotten” (*id.*).

¶24 Charlesworth draws upon statutes, case law, local records, and written histories to explain the emergence and development of the poor law and to prove that it was an actual legal right. For example, Charlesworth describes the 1601 Act for the Relief of the Poor,⁷ one of the earliest acts relating to the law of settlement and to support for the poor. The 1601 Act required both ecclesiastical and civil officials to administer its terms. The churchwarden and two to four members of the parish were appointed annually as overseers to watch over the poor, arrange for the apprenticeship of poor children, determine the level of funds—the poor rate—needed to provide for the maintenance of the poor, and assure that cottages built for the poor were utilized solely by the impoverished. Residents of each particular parish were required, upon threat of imprisonment, to contribute to the parish poor rate; the amount of contribution was based upon the value of the resident's property and the degree of local need. In addition to such distinctly legal sources, Charlesworth employs a literary source, Charles Dickens's *Little Dorritt*, as a case study (similar to those encountered in law schools) to demonstrate how the law of settlement might have applied to Amy Dorrit and Arthur Clennam.

¶25 Charlesworth takes direct aim in her book at legal scholars, whom she blames for the current, forgotten status of the poor law. She maintains that the inclusion of mere “elements of ‘history’” (p.74) in their scholarship results in a failure on the part of these scholars to recognize the poor law as the legal right that it was. Instead, this scholarship relegates the poor law to a position of merely a social rule or local custom, readily changeable over time in response to new circumstances. Such treatment by scholars, according to Charlesworth, provokes negative social

7. An Act for the Relief of the Poor, 1601, 43 Eliz., ch. 2 (Eng.).

views on welfare laws in general, rather than recognition of a “400-year-old common law” (p.1) tradition and a “positive cultural norm” (*id.*) worthy of celebration.

¶26 *Welfare’s Forgotten Past*, at 234 pages, is approachable for both students of law and legal scholars. The text is well researched and heavily footnoted, and includes both an extensive bibliography and a helpful appendix illustrating some of the law of settlement. Overall, *Welfare’s Forgotten Past* would be a valuable addition to any university or academic law library collection.

Howard, Erica. *The EU Race Directive: Developing the Protection Against Racial Discrimination Within the EU*. New York: Routledge, 2010. 238p. \$135.

Reviewed by Helen Frazer

¶27 The European Union (EU) Race Directive⁸ is important antidiscrimination legislation, binding upon member states of the EU, each of whom must implement it through national law. In *The EU Race Directive: Developing the Protection Against Racial Discrimination Within the EU*, a new study that evolved from research for the author’s Ph.D. thesis, Erica Howard sets the twin goals of assessing the directive’s effectiveness and analyzing the legislation under concepts of formal and substantive equality. Howard posits that the directive must be examined both in the context of the history and sociopolitical climate of its adoption and with respect to subsequent developments in the fight against racial discrimination.

¶28 In a series of topical chapters that read as mini-essays, the author lays out a careful, textual analysis of the EU Race Directive and related international human rights instruments, discussing relevant scholarly commentary as appropriate. The first chapter traces the history of the movement to eliminate racial discrimination in the EU, a history that resulted in the quick adoption of the EU Race Directive. The chapter also charts changing socioeconomic conditions throughout Europe that provide a possible explanation for the subsequent slow implementation of the directive by individual member states.

¶29 The second chapter broadens Howard’s analysis to encompass the equality clauses of other human rights instruments, particularly the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁹ and the European Convention on Human Rights.¹⁰ As these instruments have been signed and ratified by all of the EU member states, Howard concludes that the prohibition of racial discrimination is clearly situated within international human rights law. The chapter also reviews case law from the European Court of Justice (ECJ), an institution that “consider[s] the principle of equality to be a fundamental principle of Community law” (p.39).

¶30 Chapter 3 provides an extended discussion and analysis of contested definitions for *race*, *racism*, *racial discrimination*, and *racial or ethnic origin*, and chapter

8. Council Directive 2000/43, Implementing the Principle of Equal Treatment Between Persons Irrespective of Racial or Ethnic Origin, 2000 O.J. (L 180) 22 [hereinafter EU Race Directive].

9. International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Mar. 7, 1966, S. EXEC. DOC. C, 95-2 (1978), 660 U.N.T.S. 195.

10. Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221.