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From Means-Tested Assistance to the Insurance Principle: There and Back Again

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Abstract. This article examines the historical shift in Britain from means-tested assistance to the insurance principle, beginning with the early 20th-century Poor Law crisis. The 1911 National Insurance Act laid the foundations later expanded by the Beveridge Report and post-WWII Labour legislation, marking a move towards universalism in social policy. However, by the late 1950s and early 1960s, legal reforms – such as the decline of flat-rate contributions and the return to means-testing – foreshadowed the emerging crisis of the Welfare State. This legal-historical analysis offers insights into welfare legislation's evolution and its relevance to current policy challenges.

Keywords: *Means-tested assistance; Insurance principle; Social security; Welfare State; Twentieth-century Britain.*

1. Introduction

This article provides an overview of the historical relationship between means-tested assistance and the insurance principle in Britain. It also highlights the significance of this relationship, which helped shape the British welfare model and influenced key elements of legal, administrative, and social security law. The analysis is structured in three parts.

The first section explores the crisis of the Poor Law in the early twentieth century and the emergence of the insurance principle through the 1911 National Insurance Act. This marked a pivotal shift from means-tested

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assistance to contributory insurance, laying the foundations of the welfare model.

The second section examines the consolidation of the insurance principle, particularly during the inter-war period, culminating in the 1942 Beveridge Report and the 1948 Welfare State reforms. From this perspective, the insurance principle is presented as central to the development of universalism in social policy.

The third section addresses the crisis of the Beveridge model. It traces the post-war trajectory of the welfare system, focusing on the decline of the flat-rate contribution model from the 1950s and the gradual reintroduction of means-tested assistance. This return to means-testing anticipated key features of the Welfare State's subsequent crisis.

By analysing these historical developments, the article offers insights into the enduring relevance of the relationship between insurance and assistance. As discussed in the conclusion, understanding this evolution is crucial to grasping contemporary challenges – particularly the need to establish a normative framework that places solidarity at the core of the modern legal order. While historical in focus, the article underscores the value of historical analysis in addressing deeply rooted legal and social dilemmas today.

2. From Means-Tested Assistance to the Insurance Principle

At the turn of the twentieth century, social welfare policy in Britain remained rooted in the central tenets of the Poor Law¹. In accordance with the dogma of self-help², Poor Law principles, as is well known, linked assistance to the stigma of social exclusion, compelling individuals to rely solely on their own resources. The legitimacy of a claim to assistance was established through the harsh conditions of the workhouse, deliberately made less attractive than even the lowest-paid employment – a reflection of the 'less eligibility' principle³. Legally, this was reflected in

¹ The (Old) Poor Law model of Poor Relief Act [1601], 43 Eliz. 1, c. 2 was reorganised by the (New) Poor Law (Amendment) Act [1834], 4 & 5 Will. 4, c. 76.

² S. Smiles, *Self-help; with Illustrations of Character and Conduct*, London, John Murray, 1859.

³ See the two volumes B. Webb, S. Webb, *English Poor Law History* [1927-1929], London, Frank Cass, 1963. See also D. Roberts, *Victorian Origins of the British Welfare State*, New Haven, Yale University Press, 1960; K. Laybourn, *The Evolution of British Social Policy and the Welfare State*, Keele, Ryburn, 1995, 15-94; L. Charlesworth, *Welfare's Forgotten Past: A Socio-legal History of the Poor Law*, London-New York, Routledge, 2010, 1-34. For an international perspective, G. V. Rimlinger, *Welfare Policy and Industrialization in Europe, America, and Russia*, New York, Wiley & Sons, 1971.

the near-complete prohibition of ‘outdoor relief’ under the 1834 Poor Law Amendment Act⁴. This Act confined the poor to institutional care, depriving them of civil and political rights and segregating them from wider society.

Over time, the dominance of these principles gradually weakened. During the Victorian era, the prohibition of outdoor relief became increasingly subject to exceptions, which grew in number, scope, and inconsistency⁵. Simultaneously, a parallel expansion of social services and industrial legislation outside the Poor Law framework laid the groundwork for a transition from individualism to legal collectivism⁶. By the late nineteenth century, this shift was evident in educational reforms⁷, the enhancement of municipal services⁸, the rise of trade unions, and advancements in labour legislation⁹. Furthermore, pioneering studies on poverty supported calls for a radical overhaul of the assistance model¹⁰. It was in the Edwardian era that these ideas gained momentum, bolstered by the social reform proposals of Fabian socialists and New Liberal thinkers¹¹.

⁴ The Act’s purpose was to repeal the 1795 Speenhamland system, which established an outdoor relief of monetary assistance administered by parishes and aimed at supplementing insufficient family wages. See especially K. Polanyi, *The Great Transformation*, New York-Toronto, Farrar & Rinehart, 1944, 77-85.

⁵ Since the mid-nineteenth century exceptions had been allowed on an increasingly discretionary basis. One thinks of the ‘sudden and urgent necessity’ clause. See W. H. Beveridge, *Unemployment: A Problem of Industry*, London, Longmans, 1909, 150-157.

⁶ A.V. Dicey, *Lectures on the Relation between Law and Public Opinion in England During the Nineteenth Century*, London, Macmillan, 1905. Throughout the Nineteenth-century, the New Poor Law constituted a model that inspired a significant administrative interventionism on which recent historiography has often dwelt. See O. MacDonagh, *The Nineteenth-Century Revolution in Government: A Reappraisal*, in *The Historical Journal*, 1, 1, 1958, 52-67 and H. Parris, *Constitutional Bureaucracy*, London, Allen and Unwin, 1969.

⁷ Consider the reforms from *Elementary Education Act* [1870], 33 & 34 Vict., c. 75 to *Education Act* [1902], 2 Edw. 7, c. 42.

⁸ Note the development since the *Local Government Board Act* [1871], 34 & 35 Vict., c. 70.

⁹ *Trade Union Act* [1871], 34 & 35 Vict., c. 31; *Employers’ Liability Act* [1880], 43 & 44 Vict., c. 42; *Workmen’s Compensation Act* [1897], 60 & 61 Vict., c. 37. See D. Brodie, *A History of British Labour Law. 1867-1945*, Oxford-Portland, Hart, 2003, 1-117.

¹⁰ See C. Booth, *Life and Labour of the People*, London, Williams and Norgate, 1889-1903, and the first survey of B. S. Rowntree, *Poverty: A Study of Town Life* [1901], London, Macmillan, 1903.

¹¹ See J. A. Hobson, *The Crisis of Liberalism* [1909], Brighton, Harvester Press, 1974 and L. T. Hobhouse, *Liberalism* [1911], London, Williams & Norgate, 1919: Mainly inspired by T. H. Green’s common good, they both developed a dialogue with socialist culture. See M. Freedman, *The New Liberalism: An Ideology of Social Reform*, Oxford, Oxford University Press, 1978; J. Harris, *Political Thought and the Welfare State 1870-1940: An Intellectual Framework for British Social Policy, in Past and Present*, May, 1992, 116-141; D. Weinstein,

The findings of the Royal Commission on the Poor Laws (1905–1909) clearly demonstrated an emerging consensus on the need to move away from the stigma and selectivity embedded in the Poor Law, towards a more inclusive welfare system¹². Although the Commission issued both Majority and Minority Reports¹³, it was unanimous in rejecting the core Poor Law principles, which had historically linked welfare assistance with the loss of civil and political rights. In an increasingly industrialised society, poverty was being reinterpreted not as a personal failing but as a structural problem¹⁴.

This change in legal thinking was evident in the reforms implemented by the New Liberal governments of 1906–1914. A general legal trend was the establishment of social services independent of the Poor Law¹⁵. This «continuous series of departures from the principles of 1834»¹⁶ was reflected across key areas of social legislation.

The Old Age Pensions Act of 1908, introduced by the Asquith government, exemplified this shift. Though modest in benefit and subject to stringent means-testing¹⁷, the Act was significant¹⁸ in granting state

Utilitarianism and the New Liberalism, Cambridge, Cambridge University Press, 2007. On these legal mediations under the banner of a «progressive thought» and an «evolutionary social theory», see M. Loughlin, *Public Law and Political Theory*, Oxford, University Press, 1992, 105-125.

¹² *Report of the Royal Commission on the Poor Laws and Relief of Distress* [Cd. 4499], 1909.

¹³ Suggesting greater public interventionism, the Minority Report was opposed to the Majority's support for voluntary philanthropy.

¹⁴ See A. Briggs, *The Welfare State in Historical Perspective*, in *Archives européennes de sociologie*, II, 1961, 221-258.

¹⁵ See M. Bruce, *The Coming of the Welfare State*, London, Batsford, 1968; J. R. Hay, *The Origins of the Liberal Welfare Reforms. 1906-1914*, London, Macmillan, 1975; the last part of E. J. Feuchtwanger, *Democracy and Empire: Britain, 1865-1914*, London, Edward Arnold, 1985 and J. Cooper, *The British Welfare Revolution, 1906-14*, London, Bloomsbury Academic, 2017.

¹⁶ B. Webb, S. Webb, *English Poor Law History*, cit., 547. Similarly, D. Fraser, *The Evolution of the British Welfare State. A History of Social Policy Since the Industrial Revolution*, London, Macmillan, 1973. See also G. R. Boyer, *The Winding Road to the Welfare State. Economic Insecurity & Social Welfare Policy in Britain*, Princeton, Princeton University Press, 2019.

¹⁷ See B. B. Gilbert, *The Evolution of National Insurance in Great Britain: The Origins of the Welfare State*, London, Michael Joseph, 1966, 159-232; D. Collins, *The Introduction of Old Age Pension in Great Britain*, in *Historical Journal*, VIII, 1965, 246-259; A. I. Ogus, *Great Britain*, in (ed.) P. A. Köhler, H. F. Zacher, *The Evolution of Social Insurance. 1881-1981*, London, Frances Printer, 1982, especially, 150-187. More generally, H. Heclö, *Modern Social Politics in Britain and Sweden. From Relief to Income Maintenance*, New Haven, Yale University Press, 1974, 158-178.

¹⁸ See P. Thane, *Non-contributory versus Insurance Pensions 1878-1908*, in (ed.) Id., *The Origins of British Social Policy*, London, Croom Helm, 1978, 84-105.

pensions on a national basis, breaking from local administration and Poor Law scope. The pension was paid in cash and could be collected from post offices – thus embodying the «right to receive an old age pension»¹⁹ rather than a discretionary handout. While certain elements retained Poor Law characteristics, Section 1 of the Act marked a notable departure, affirming: «The receipt of an old age pension under this Act shall not deprive the pensioner of any franchise, right or privilege, or subject him to any disability».

This move away from a welfare policy restricted to the poor was echoed in legislation on child welfare²⁰, public employment services, improved workers' compensation, the establishment of labour exchanges, and the introduction of a minimum wage for selected occupations²¹.

However, it was the 1911 National Insurance Act – providing insurance against illness and unemployment – that marked a decisive shift from means-tested assistance to contributory benefits²². The Act consisted of two parts.

Although inspired by Bismarckian social insurance²³ and partly shaped by paternalistic²⁴ and imperialist²⁵ aims, Part I²⁶ (National Health Insurance) introduced provisions that opposed the stigma of the Poor Law²⁷ and promoted a more inclusive model. While hospital care remained outside its remit²⁸, the scheme entitled most workers to medical benefits and

¹⁹ *Old Age Pensions Act* [1908], 8 Edw. 7, c. 40, s. 1.

²⁰ *Education (Provision of Meals) Act* [1906], 6 Edw. 7, c. 57; *Education (Administrative Provisions) Act* [1907], 7 Edw. 7, c. 43; *Children Act* [1908], 8 Edw. 7, c. 67; *Education (Provision of Meals) Act* [1914], 4 & 5 Geo. 5, c. 20.

²¹ In addition to *Workmen's Compensation Act* [1906], 6 Edw. 7, c. 58, the Board of Trade headed by Churchill introduced – with the help of William Beveridge who was working as a civil servant – the *Labour Exchanges Act* [1909], 9 Edw. 7, c. 7 and *Trade Boards Act* [1909], 9 Edw. 7, c. 22. Both Acts were crucial in dismissing the sanctity of laissez-faire.

²² See L. G. Chiozza Money, *Insurance vs Poverty*, London, Methuen, 1912.

²³ See E. P. Hennock, *British Social Reform and German Precedents. The Case of Social Insurance 1880-1914*, Oxford, Clarendon Press, 1987.

²⁴ See H. BELLOC, *The Servile State*, London-Edinburgh, T.N. Foulis, 1912.

²⁵ Consider that the *Report of the Inter-departmental Committee on Physical Deterioration* [Cd. 2175], 1904 seemed to be concerned about health mostly to ensure army efficiency. See also G. R. Searle, *The Quest for National Efficiency: A Study in British Politics and Political Thought, 1899-1914*, Oxford, Blackwell, 1971.

²⁶ *National Insurance Act* [1911], 1 & 2 Geo. 5, c. 55, s. 1-83.

²⁷ R. W. Harris, *National Health Insurance in Great Britain. 1911-1946*, London, Allen & Unwin, 1946, 38-94; D. C. Marsh, *National Insurance and Assistance in Great Britain*, London, Pitman, 1950, 28-38.

²⁸ B. Webb, S. Webb, *The State and the Doctor*, London, Longmans, 1910: Apart from the hospitals of private associations (pp. 130-153), public medical care remained divided

general practice care, funded through a tripartite contribution system involving the employee, employer, and the State²⁹. This structure reflected a growing sense of shared social responsibility, with the State acting as both guarantor and financier of the scheme. The flat-rate contribution model – offering equal benefits for all regardless of income – symbolised a baseline of subsistence welfare and established a clear legal distinction between contributory insurance and residual means-tested assistance.

Conversely, Part II³⁰ (Unemployment Insurance) applied a similar contributory structure but was limited to certain occupations prone to cyclical unemployment³¹. Despite its narrow scope, it marked the first national European scheme for unemployment protection, challenging laissez-faire orthodoxy³² and positioning Britain as the first country to offer statutory cover for the major risks of industrial society: workplace injury, old age, illness, and unemployment³³.

By combining their effects, the two parts of the 1911 Act redefined the State's responsibilities, expanding public expenditure, increasing redistributive efforts, and strengthening the role of centralised national social services. Sociologically, these developments represented the institutionalisation of social rights, potentially «just as valid as the rights of person or property»³⁴. Legally, the contributory principle was the key mechanism for implementing broader social policy goals.

The introduction of a tripartite scheme reflected not only higher public spending but also a new fiscal strategy. While the flat-rate principle lacked direct redistributive intent, it was closely tied to the broader tax reforms

between the treatments that were offered by local authorities (pp. 154-210) and those still regulated by the Poor Law (pp. 14-129). See also B. Abel-Smith, *The Hospitals, 1800-1948: A Study in Social Administration in England and Wales*, London, Heinemann, 1964.

²⁹ 4, 3 and 2 pence, respectively.

³⁰ *National Insurance Act* [1911], 1 & 2 Geo. 5, c. 55, s. 84-107.

³¹ See B. B. Gilbert, *The Evolution of National Insurance in Great Britain*, cit., 233-288 and J. Fulbrook, *Administrative Justice and the Unemployed*, London, Mansell, 1978, 130-141.

³² See K. Middlemas, *Politics in Industrial Society. The Experience of British System Since 1911*, London, A. Deutsch, 1979, 27-67.

³³ S. Kuhnle, A. Sander, *The Emergence of the Western Welfare State*, in F. G. Castles (et al.), *The Oxford Handbook of the Welfare State*, Oxford, Oxford University Press, 2012, 63-82. See also B. Aguilera-Barchet, *The Law of the Welfare State*, in (ed.) H. Pihlajamäki, M. D. Dubber, M. Godfrey, *The Oxford Handbook of European Legal History*, Oxford, Oxford University Press, 2018, 1000-1024.

³⁴ L.T. Hobhouse, *Liberalism* [1911], London, Williams & Norgate, 1919, 159. See also L.T. Hobhouse, *The Historical Evolution of Property, in Fact and in Idea*, in *Property. Its Duties and Rights*, London, MacMillan, 1913, 1-31.

introduced in Lloyd George's 1909 "People's Budget"³⁵, which aimed to increase taxes on the wealthy. This budget triggered a constitutional crisis resolved only by the 1911 Parliament Act after significant political confrontation and the intervention of King George V³⁶. The National Insurance Act, by facilitating greater redistribution through social benefits and taxation, aligned with this broader fiscal vision.

The practical implementation of the contributory principle paralleled several key administrative transformations, all contributing to the growth of State services:

a) **Compulsory Participation:** While compulsory insurance was not novel in continental Europe, its adoption in Britain – a country with a strong tradition of voluntary and philanthropic welfare – marked a significant innovation. Under the new system, only government-approved societies could participate, and a clear distinction was drawn between the new 'approved societies' and traditional friendly societies'. The shift to compulsory provision thus signalled the replacement of voluntary initiative with public service³⁷.

b) **Administrative Centralisation:** Although centralisation dated back to the 1834 Poor Law, the national character of the 1911 scheme further concentrated powers and responsibilities. The Act aimed to overcome the traditional fragmentation of social welfare and localism by introducing a national minimum standard of benefit³⁸.

c) **Expansion of Regulatory Power:** The scale and complexity of the scheme necessitated new administrative mechanisms. The National Health Insurance Commission and the Board of Trade were empowered to issue regulations «for any of the purposes» of the Act³⁹. As A.V. Dicey noted in his 1914 edition of *Law and Public Opinion*, this represented «probably the widest power of subordinate legislation ever conferred by Parliament upon any body of officials»⁴⁰. Bureaucratic administration grew in parallel,

³⁵ See W. Churchill, *Liberalism and the Social Problem*, London, Hodder and Stoughton, 1909.

³⁶ *Parliament Act* [1911], 1 & 2 Geo. 5, c. 13.

³⁷ See G. Finlayson, *Citizen, State, and Social Welfare in Britain 1830-1990*, New York, Oxford University Press, 1994, especially pp. 19-107, and generally B. Fraser Brockington, *A Short History of Public Health*, London, J. & A. Churchill, 1966, 34-52.

³⁸ On the directions of compulsory and administrative centralisation, G. F. Ferrari, *La sicurezza sociale in Gran Bretagna*, in *Rivista trimestrale di diritto pubblico*, 3, 1981, 936-1001.

³⁹ *National Insurance Act* [1911], 1 & 2 Geo. 5, c. 55, s. 65 and 91.

⁴⁰ A. V. Dicey, *Lectures on the Relation between Law and Public Opinion in England During the Nineteenth Century*, London, Macmillan, 1914, XL. On the delegated legislation emergence, it is historically essential C. T. Carr, *Delegated Legislation. Three Lectures*, Cambridge, University Press, 1921.

with civil servants playing an increasingly central role⁴¹.

d) Establishment of Administrative Tribunals: Dispute resolution mechanisms under the Act are often seen as the origin of modern administrative tribunals⁴². Dicey, revising his earlier scepticism, acknowledged that the Insurance Act had created «a system bearing a marked resemblance to the administrative law of France»⁴³.

In sum, the transition from means-tested assistance to a contributory national insurance model prior to the First World War signalled not only a more inclusive social policy but also the advent of a new redistributive and administrative order. The contributory principle, as embodied in the 1911 National Insurance Act, played a central role in reshaping the legal system and redefining the social responsibilities of the State.

3. Beveridge Model Achievements

The impact of the First World War was the single most crucial turning point for the growth in public spending and the increase in the State's redistributive efforts. The global conflict overcame nineteenth-century

⁴¹ W. J. Braithwaite, *Lloyd George Ambulance Wagon. The Memoirs of W. J. Braithwaite*, C. B., London, Cedric Chivers, 1957, 259-306. About civil service constitutional role, see the essays in *The Development of the Civil Service*, London, P.S. King, 1922. See also H. R. G. Greaves, *The Civil Service in the Changing State*, London, Harrap, 1947; T. Rosamund, *The British Philosophy of Administration. A Comparison of British and American Ideas 1900-1939*, London, Longman, 1978; R. Davidson, R. Lowe, *Bureaucracy and Innovation in British Welfare Policy 1870-1945*, in (ed.) W. J. Mommsen, *The Emergence of the Welfare State in Britain and Germany. 1850-1950*, London, Croom Helm, 1981, 263-295.

⁴² J. A. G. Griffith, H. Street, *Principles of Administrative Law*, London, Pitman, 1952; S. A. De Smith, *Judicial Review of Administrative Action*, London, Stevens, 1959; H. W. R. Wade, *Administrative Law*, Oxford, Clarendon Press, 1961; H. Street, *Justice in the Welfare State*, London, Stevens, 1968; K. Bell, *Tribunals in the Social Services*, London, Routledge & Kegan Paul, 1969; R. E. Wraith, P. G. Hutchesson, A. Macdonald, *Administrative Tribunals*, London, Allen & Unwin, 1973; L. Mannori, B. Sordi, *Storia del diritto amministrativo*, Roma, Laterza, 2001, 428-440; C. Stebbings, *Legal Foundation of the Tribunals in Nineteenth Century England*, Cambridge, Cambridge University Press, 2006, 273-329; C. Harlow, R. Rawlings, *Law and Administration*, Cambridge, CUP, 2009.

⁴³ A. V. Dicey, *Lectures*, cit., XLIII. These arguments were confirmed in *The Development of Administrative Law in England*, in *Law Quarterly Review*, XXXI, 1915, 148-153. See also S. Cassese, *Albert Venn Dicey e il diritto amministrativo*, in *Quaderni fiorentini per la storia del pensiero giuridico moderno*, 19, 1, 1990, 5-82; B. Sordi, *Révolution, Rechtsstaat and the Rule of Law: Historical Reflections on the Emergence of Administrative Law in Europe*, in (ed.) P. Lindseth, S. Rose-Ackerman, *Comparative Administrative Law*, Northampton, Edward Elgar, 2010, 23-36; B. Sordi, *Diritto pubblico e diritto privato. Una genealogia storica*, Bologna, Il Mulino, 2020, 58-62.

ideas and paved the way for the modern State⁴⁴.

Further theoretical innovations occurred during the interwar period. The new Keynesian economics overruled the former laissez-faire theory⁴⁵. In a sense, political theory was perfecting the mediation between liberalism and socialism⁴⁶. A new legal philosophy supporting the positive duties of the State was envisioned⁴⁷. Consequently, the very first proposals for administrative law challenging the hegemony of Diceyan Rule of Law were born⁴⁸.

However, upon closer examination of social policy legislation, the interwar period, despite its impressive theoretical innovations, appeared to be largely a consolidation of trends already initiated by the National Insurance Act of 1911⁴⁹.

This was demonstrated by Neville Chamberlain's Widows', Orphans', and Old Age Contributory Pensions Act of 1925⁵⁰. For those already covered

⁴⁴ For an international perspective, see the first pages of E. J. Hobsbawm, *Age of Extreme. The Short Twentieth Century 1914-1991*, London, Abacus, 1995 and C. S. Maier, *Leviathan 2.0: Inventing Modern Statehood*, Cambridge, Harvard University Press, 2014. For British history, P. Clarke, *Hope and Glory. Britain 1900-1990*, London, Penguin books, 2004. Considering social policy matters, J. E. Cronin, *War, State and Society in Twentieth-Century Britain*, London and New York, Routledge, 1991, 1-17; M. J. Daunton, *Payment and Participation: Welfare and State-Formation in Britain 1900-1951*, in *Past and Present*, 1996, 169-216; F. Nullmeier, F. X. Kaufmann, *Post-War Welfare State Development*, in F. G. Castles (et al.), *The Oxford Handbook of the Welfare State*, Oxford, Oxford University Press, 2012.

⁴⁵ J. M. Keynes, *The End of Laissez-Faire*, London, Hogarth Press, 1926.

⁴⁶ R. H. Tawney, *Equality*, London, Unwin, 1931.

⁴⁷ See at least H. J. Laski, *Studies in the Problem of Sovereignty*, New Haven, Yale University Press, 1917; *Authority in the Modern State*, New York, Yale University Press, 1919; H. J. Laski, *Grammar of Politics* [1925], London, Allen & Unwin, 1938, 151.

⁴⁸ See W. A. Robson, *Justice and Administrative Law. A Study of the British Constitution* [1928], London, Stevens & Sons, 1951 and W. I. Jennings, *The Law and the Constitution* [1933], London, University of London Press, 1948.

⁴⁹ T. H. Marshall, *Social Policy in the Twentieth Century*, London, Hutchinson, 1975, 67. See the essays in (ed.) W. A. Robson, *Social Security*, London, Allen & Unwin, 1948. About the transformations of the interwar period, see W. G. Runciman, *Relative Deprivation and Social Justice. A Study of Attitudes to Social Inequality in Twentieth-Century England*, London Routledge, 1966; M. A. Crowther, *Social Policy in Britain 1914-1939*, London, Macmillan, 1988; A. Digby, *British Welfare Policy: from Workhouse to Workfare*, London, Faber and Faber, 1989, 48-63.

⁵⁰ *Widows', Orphans' and Old Age Contributory Pensions Act* [1925], 15 & 16 Geo. 5, c. 70. See D. C. Marsh, *National Insurance and Assistance in Great Britain*, London, Pitman, 1950, especially, 39-59. On the complexity of that period, especially considering the events of the 1925 Churchill Budget and the subsequent protests culminating with 1926 general strike, see P. Thane, *Foundations of the Welfare State*, London-New York, Longman, 1996, 129-210.

by National Health Insurance and subject to compulsory contributions, the 1925 Act introduced the right to receive a pension at the age of sixty-five, along with provisions for widows and children of deceased workers. The enactment of the contributory pension completed the insurance scheme and was a legal refinement of its guidelines, thus filling the pre-war gap in social security law. National Health Insurance served as the core of this model. Based on the former contributory scheme, pensions were finally recognised.

Arguably, the most significant interwar innovations concerned unemployment. Extended across the entire munitions industry during the war⁵¹, the Unemployment Insurance Act of 1920 made contributions compulsory for all workers, except those with high incomes or in specific, expressly stated categories⁵². The legal principle of 1911 was reversed: the general rule became being insured, whereas being uninsured became the exception. With a workforce coverage similar to that of National Health Insurance, contributory unemployment benefits lost their original experimental nature and became a hallmark of British social security law. Nonetheless, it quickly became apparent that public responsibility for unemployment would be difficult to implement. In response to the economic instability of 1921, the Geddes Report recommended widespread reductions in welfare spending, revealing strong opposition to the realisation of a proper Welfare State⁵³. In this context, it is worth noting that many Unemployment Acts amended benefits almost annually throughout the entire interwar period. Amidst trade union uprisings, these Acts aimed to establish new criteria for obtaining ‘uncovenanted benefits’, later termed ‘extended’ and then ‘transitional’ – i.e., benefits granted exceptionally beyond the basic scheme’s duration, though subject to means-testing⁵⁴.

The most relevant legal-historical aspect is the unremitting weakening of the clear separation between contributory insurance and social assistance envisioned by the 1911 Act. This trend highlighted the difficulties with the contributory principle and the persistence of means-tested assistance,

⁵¹ *National Insurance (Part II) (Munition Workers) Act* [1916], 5 & 6 Geo. 5, c. 20.

⁵² *The Unemployment Insurance Act* [1920], 10 & 11 Geo. 5, c. 30.

⁵³ *First Interim Report of Committee on National Expenditure* [Cmd. 1581], 1922.

⁵⁴ W. H. Beveridge, *The Past and Present of Unemployment Insurance*, London, Oxford University Press, 1930, 15-47; A. Crew, R. J. Blackham, A. Forman, *The Unemployment Insurance Acts, 1920-1930*, London, Jordan & Sons, 1930; M. B. Gilson, *Unemployment Insurance in Great Britain*, London, Allen & Unwin, 1931. See also N. Harris, *Social Security Law in Context*, Oxford, Oxford University Press, 2000, 67-86.

which was still regarded as a fundamental tool for alleviating destitution. Despite the terminal decline of the Poor Law – resulting from the abolition of workhouses and the Board of Guardians under the 1929 Local Government Act⁵⁵ – the use of means-tests increased during the Great Depression. The economic slump and the constitutional crisis in the summer of 1931 led to many restrictions on means-tested benefits, following the May Report recommendations⁵⁶. During this period of mass unemployment, the ‘household means-test’ often involved significant intrusion into citizens’ private lives by measuring entire family assets⁵⁷. The Unemployment Act of 1934 attempted to address the chaotic overlap between assistance and insurance⁵⁸. On the one hand, it established an Unemployment Insurance Statutory Committee responsible for administering unemployment insurance. On the other hand, it created the Unemployment Assistance Board, which managed welfare benefits for the unemployed not covered by insurance. A national means-test was introduced for the latter group, thereby providing uniform procedures in an attempt to reduce administrative discretion. However, the reform proved ineffective due to widespread protests and hunger marches in depressed areas⁵⁹. Public indignation erupted when – in order to ensure uniformity in assistance – benefits were reduced in districts that had previously applied the means-test less stringently⁶⁰. In the context of the Second World War and a growing climate of social

⁵⁵ *Local Government Act* [1929], 19 Geo. 5, c. 17 and *Poor Law Act* [1930], 20 Geo. 5, c. 17. See also M. A. Crowther, *The Later Years of the Workhouses 1890-1929*, in (ed.) P. Thane, *The Origins of British Social Policy*, London, Croom Helm, 1978, 36-55.

⁵⁶ *Report of Committee on National Expenditure* [Cmd. 3920], 1931.

⁵⁷ N. Branson, M. Heinemann, *Britain in the Nineteen Thirties*, New York, Praeger, 1971, 27-57.

⁵⁸ W. I. Jennings, *The Poor Law Code, and the Law of Unemployment Assistance*, London, Charles Knight, 1936 (second edition, originally published 1930). See J. Fulbrook, *Administrative Justice and the Unemployed*, London, Mansell, 1978, 159-171 and T. Lynes, *Unemployment Assistance Tribunals in the 1930s*, in (ed.) M. Adler, A. Bradley, *Justice, Discretion and Poverty. Supplementary Benefit Appeal Tribunals in Britain*, Abingdon, Professional Books, 1982, 5-31.

⁵⁹ *Unemployment Assistance (Temporary Provisions) Act* [1935], 25 & 26 Geo. 5, c. 6 and *Unemployment Assistance (Temporary Provisions) (No. 2)* [1935], 25 & 26 Geo. 5, c. 22.

⁶⁰ W. G. Runciman, *Relative Deprivation and Social Justice. A Study of Attitudes to Social Inequality in Twentieth-Century England*, London Routledge, 1966; see the chapter about «the historical background». The means-test will be amended by *Determination of Needs Act* [1941], 4 & 5 Geo. 6, c. 11.

solidarity⁶¹, the Beveridge Report proved to be the only effective instrument for planning legislative reorganisation⁶². As a leading expert on social policy, William Beveridge based his *Social Insurance and Allied Services* Report on principles utterly opposed to those underpinning the Poor Law⁶³. In contrast to the stigma and selectivity of means-tested assistance, the Beveridge Plan presented an inclusive and universalist blueprint aimed at protecting citizens ‘from cradle to grave’⁶⁴.

The hostility towards the means-test was evident in the three «guiding principles» of the Report: the wartime context (the first) enabled the envisioning of revolutionary reforms grounded in unprecedented comprehensiveness (the second), ultimately establishing a national minimum of social welfare that did not compromise voluntary action (the third)⁶⁵.

The same hostility appeared in the Report’s three «assumptions»: family allowances (assumption A), the National Health Service (B), and full employment (C). These assumptions reflected the ambition to frame rights for all citizens⁶⁶. In particular, the National Health Service became the most visible symbol of social policy universalism. Its free-of-charge

⁶¹ See R. M. Titmuss, *Problems of Social Policy. History of the Second World War. United Kingdom Civil Series*, London, HMSO and Longmans, 1950. See also P. Addison, *The Road to 1945. British Politics and Second World War*, London, Quarted Books, 1977. For a different perspective, K. Jefferys, *British Politics and Social Policy During the Second World War*, in *Historical Journal*, 30, 1, 1987, 123-144.

⁶² J. Harris, *William Beveridge: A Biography*, Oxford, Oxford University Press, 1977.

⁶³ *Report of the Inter-Departmental Committee on Social Insurance and Allied Services* [Cmd. 6404], 1942. See G. D. H Cole, *Beveridge Explained. What the Beveridge Report on Social Security Means*, London, The New Statesman and Nation, 1942. See also B. Abel-Smith, *The Beveridge Report: Its Origins and Outcomes* and P. Baldwin, *Beveridge in the Long Durée*, both in (ed.) J. Hills, J. Ditch, H. Glennerster, *Beveridge and Social Security: An International Retrospective*, Oxford, Clarendon Press, 1994.

⁶⁴ The Plan consisted of fighting the ‘five giants’, i.e., by the attack «upon the physical Want with which it is directly concerned, upon Disease which often causes that Want and brings many other troubles in its train, upon Ignorance which no democracy can afford among its citizens, upon the Squalor which arises mainly through haphazard distribution of industry and population, and upon the Idleness which destroys wealth and corrupts men, whether they are well fed or not, when they are idle». *Report of the Inter-Departmental Committee on Social Insurance and Allied Services* [Cmd. 6404], 1942. See N. Timmins, *The Five Giants: A Biography of the Welfare State*, London, William Collins, 2017.

⁶⁵ *Report of the Inter-Departmental Committee on Social Insurance and Allied Services* [Cmd. 6404], 1942, 6-7, par. 7-9.

⁶⁶ *Ibid.*, 154-165, par. 410-443. Originally named «maintenance of employment», Assumption C will be the specific subject of W. H. Beveridge, *Full Employment in a Free Society*, London, Allen & Unwin, 1944.

nature clearly exemplified the aversion to means-testing. This objective was also reflected in the three «methods» of the plan⁶⁷. First, the new National Insurance was to be firmly based on a reaffirmation of the contributory principle:

The first view is that benefit in return for contributions, rather than free allowances from the State, is what the people of Britain desire. This desire is shown both by the established popularity of compulsory insurance, and by the phenomenal growth of voluntary insurance against sickness, against death and for endowment, and most recently for hospital treatment. It is shown in another way by the strength of popular objection to any kind of means test⁶⁸.

Indeed, the decision to maintain the flat-rate contribution shaped much of the plan. As Beveridge pointed out: «The first fundamental principle of the social insurance scheme is provision of a flat-rate of insurance benefit, irrespective of the amount of the earnings», which distinguishes «Britain from the security schemes of Germany, the Soviet Union, the United States and most other countries»⁶⁹. The flat-rate principle, inherited from the National Insurance Act of 1911, aligned with the guiding principles of the plan. It was consistent with the vision of a universalist system promising equal benefits for all workers and for all social risks⁷⁰, and equivalent to a welfare national minimum intended to endure: «indefinitely without means test, so long as the need continues»⁷¹.

The flat-rate principle also influenced the number of benefits. As earnings-unrelated contributions were financially limiting, benefits had to be set at an “adequacy”⁷² level close to subsistence. For the same reasons, the flat-rate contribution necessitated clear fiscal progressivity – a feature well suited to the wartime context, during which, as in the First World War, income tax increased substantially.

⁶⁷ *Report of the Inter-Departmental Committee on Social Insurance and Allied Services* [Cmd. 6404], 1942, 120-121, par. 302.

⁶⁸ *Ibid.*, 11-12, par. 21.

⁶⁹ *Ibid.*, 121, par. 304.

⁷⁰ In order to identify exceptions to this key rule, Beveridge pointed out six categories: Employees, others gainfully occupied, housewives, others of working age, below working age, retired above working age. *Ibid.*, 122-137, par. 310-353.

⁷¹ *Ibid.*, 122, par. 307. This proposal will not be implemented after the war because it is considered utopian even by Labour: N. Timmins, *The Five Giants: A Biography of the Welfare State*, London, William Collins, 2017, 58-59.

⁷² *Report of the Inter-Departmental Committee on Social Insurance and Allied Services* [Cmd. 6404], 1942, 122, par. 307.

Second, National Assistance was to be residual, a merely «subsidiary method»⁷³. Essentially, it was to be limited to those unable to work⁷⁴:

The State cannot be excluded altogether from giving direct assistance to individuals in need, after examination of their means. However comprehensive an insurance scheme, some, through physical infirmity, can never contribute at all and some will fall through the meshes of any insurance [...]. But the scope of assistance will be narrowed from the beginning and will diminish throughout the transition period for pensions. The scheme of social insurance is designed of itself when in full operation to guarantee the income needed for subsistence in all normal cases⁷⁵.

This stemmed also from the need to avoid overuse of assistance, which might undermine the «full use of the voluntary action»⁷⁶.

Third, since the State only guaranteed the national minimum, voluntary insurance was to be encouraged for benefits «beyond subsistence level»⁷⁷. The plan aimed to protect only essential needs to prevent the risks of clientelism and bureaucratic sclerosis.

It must be acknowledged, however, that the Beveridge Report did not propose a wholly universalistic model of welfare, primarily because it required, as noted, the creation of a residual assistance scheme. It also failed in providing sufficient social protection for unmarried women⁷⁸. From a broader historical perspective, however, the push towards universalism in social policy emerges as a defining development. Despite the rejection of certain Beveridgean proposals, this shift towards social universalism took form within a few years.

While the 1944 Education Act and the 1945 Family Allowances Act were enforced by Churchill's government⁷⁹, the Report's proposals were largely implemented by Labour after the war. The Attlee government's National Insurance Act of 1946 introduced a comprehensive scheme to cover all

⁷³ Ibid., 12, par. 23.

⁷⁴ See M. P. Hall, *The Social Services of Modern England* [1952], London, Routledge & Kegan Paul, 1953, 26-49.

⁷⁵ *Report of the Inter-Departmental Committee on Social Insurance and Allied Services* [Cmd. 6404], 1942, 12, par. 23.

⁷⁶ W. H. Beveridge, *Voluntary Action. A Report on Methods of Social Advance*, Allen & Unwin, London, 1948, 266.

⁷⁷ *Report of the Inter-Departmental Committee on Social Insurance and Allied Services* [Cmd. 6404], 1942, 143, par. 375.

⁷⁸ J. Harris, *William Beveridge*, cit., pp. 406-407.

⁷⁹ *Education Act* [1944], 7 & 8 Geo. 6, c. 31 and *Family Allowances Act* [1945], 8 & 9 Geo. 6, c. 41.

major social security risks⁸⁰. This Act was linked to the National Insurance (Industrial Injuries) Act⁸¹, which repealed earlier legislation dating back to the Workmen's Compensation Act of 1897⁸², addressed legislative backwardness, and created a national compulsory scheme in this area. The 1946 National Health Service Act⁸³ – originally intended to be completely free of charge – and the 1948 National Assistance Act⁸⁴ completed the model⁸⁵.

While the NHS arguably represented the most remarkable innovation, breaking with previous tradition through its unprecedented universalism⁸⁶, the National Assistance Act also carried significant symbolic weight, as it formally abolished the Poor Law system. As stated in Section 1: «the existing poor law shall cease to have effect».

4. From the Insurance Principle to Means-tested Assistance

The Acts based on Beveridge's proposal came into effect on the 'appointed day' of 5th July 1948. Marking the beginning of the «Welfare

⁸⁰ *National Insurance Act* [1946], 9 & 10 Geo. 6, c. 67.

⁸¹ *National Insurance (Industrial Injuries) Act* [1946], 9 & 10 Geo. 6, c. 62; *New Towns Act* [1946], 9 & 10 Geo. 6, c. 68.

⁸² *Workmen's Compensation Act* [1897], 60 & 61 Vict., c. 37. See P. W. J. Bartrip, *Workmen's Compensation in Twentieth Century Britain: Law, History and Social Policy*, Aldershot, Avebury, 1987.

⁸³ *National Health Service Act* [1946], 9 & 10 Geo. 6, c. 81.

⁸⁴ *National Assistance Act* [1948], 11 & 12 Geo. 6, c. 29.

⁸⁵ To understand Labour welfare policy, see *Trade Disputes and Trade Unions Act* [1946], 9 & 10 Geo. 6, c. 52; *Town and Country Planning Act* [1947], 10 & 11 Geo. 6, c. 51; *Children Act* [1948], 11 & 12 Geo. 6, c. 43; *Legal Aid and Advice Act* [1949], 12, 13 & 14 Geo. 6, c. 51; *Housing Act* [1949], 12, 13 & 14 Geo. 6, c. 60. See H. Glennerster, *British Social Policy Since 1945*, Howard Oxford Cambridge, Blackwell, 1995 and R. Lowe, *The Welfare State in Britain Since 1945*, London, MacMillan, 2005.

⁸⁶ On NHS creation, H. Eckstein, *The English Health Service: Its Origins, Structure, and Achievements*, Cambridge, Harvard University Press, 1958; J. S. Ross, *The National Health Service in Great Britain. An Historical and Descriptive Study*, London, Oxford University Press, 1952; J. Willcoks, *The Creation of the National Health Service*, London, Routledge & Kegan Paul, 1967. See also V. Navarro, *Class Struggle, the State and Medicine: An Historical and Contemporary Analysis of the Medical Sector in Great Britain*, New York, Prodist, 1978; S. Iliffe, *The NHS. A Picture of Health?*, London, Lawrence & Wishart Limited, 1983; M. Rintala, *Creating the National Health Service: Aneurin Bevan and the Medical Lords*, Portland, Frank Cass, 2003; R. Klein, *The New Politics of the NHS. From Creation to Reinvention*, Abingdon, Radcliffe, 2010, 1-30.

State»⁸⁷ and of a completely new legal order founded jointly on civil, political, and social rights, this moment represented an attempt to create an effective «social citizenship»⁸⁸. The concept of social citizenship constitutes a significant legal innovation from a descriptive perspective. It represents a reversal of Henry Sumner Maine's movement «from status to contract»⁸⁹, thereby establishing the conditions for a return to status and a new material conception of equality before the law. Social citizenship also illustrates an effort to ground civil, political, and social rights on the same sociological foundation, thus envisioning a process of their progressive legal equalisation.

In the context of the nationalisation of new public services – which challenged private law constitutionalism and the conception of law as an individualistic tool for preventing the abuse of administrative power⁹⁰ – social ‘rights’ appeared to become citizenship rights, rather than mere ‘concessions’ made to poorer citizens on the basis of means-tests.

⁸⁷ The modern understanding of the term ‘Welfare State’ is usually attributed to W. Temple, *Citizen and Churchman*, London, Eyre & Spottiswoode, 1941. The commonly accepted Welfare State definition is that of A. Briggs, *The Welfare State in Historical Perspective*, in *Archives européennes de sociologie*, II, 1961, 228. For an international perspective, J. Alber, *Vom Armenhaus zum Wohlfahrtsstaat: Analysen zur Entwicklung der Sozialversicherung in Westeuropa*, Frankfurt, Campus, 1982; D. E. Ashford, *The Emergence of the Welfare States*, Oxford, Blackwell, 1986; G. A. Ritter, *Der Sozialstaat. Entstehung und Entwicklung im internationalen Vergleich*, München, R. Oldenbourg, 1991; M. Ferrera, *Modelli di solidarietà: politica e riforme sociali nelle democrazie*, Bologna, Il Mulino, 1993. For its legal historical meaning, see generally the last pages of P. Grossi, *A History of European Law*, Chichester, Wiley-Blackwell, 2010.

⁸⁸ T. H. Marshall, *Citizenship and Social Class and Other Essays*, Cambridge, Cambridge University Press, 1950. See also A. Giddens, T. H. Marshall, *the State and Democracy*, in (ed.) M. Bulmer, A. M. Rees, *Citizenship Today. The Contemporary Relevance of T. H. Marshall*, London, UCL Press, 1996. See, generally, P. Costa, *Civitas. Storia della cittadinanza in Europa. 4. L'età dei totalitarismi e della democrazia*, Roma, Laterza, 2001 and L. Pacinotti, *L'ingranaggio della cittadinanza sociale. Il Welfare State britannico tra National Insurance e National Health Service*, Milano, Giuffrè, 2023.

⁸⁹ H.S. MAINE, *Ancient Law* [1861], Boston, Beacon Press, 1963.

⁹⁰ Reacting to F. A. Hayek, *The Road to Serfdom*, London, Routledge, 1944, see H. Finer, *Road to Reaction*, London, Dennis Dobson, 1945, B. Wootton, *Freedom Under Planning*, Chapel Hill, The University of North Carolina Press, 1945 and T. H. Marshall, *Citizenship and Social Class and Other Essays*, Cambridge, Cambridge University Press, 1950. The debate also involved more legal-oriented authors: see A. T. Denning, *Freedom Under Law* [1949], London, Stevens, 1986 and W. G. Friedmann, *Law and Social Change in Contemporary Britain*, London, Stevens, 1951. See also G. W. Keeton, *The Twilight of the Common Law* [1949], in Id., *The Passing of the Parliament*, London, Ernest Benn, 1952, pp. 1-12 and the essays in M. Ginsberg (ed.), *Law and Opinion in England in 20th Century*, London, Stevens, 1959.

However, difficulties in implementing this general legal project soon emerged⁹¹. Both Labour and the Conservatives breached the universalism of the Beveridge model, with the National Health Service Acts of 1951 and 1952 introducing the first charges⁹². Regarding the specific topic of this article, it is particularly notable that there was a «reappearance of the means test»⁹³, since section 4 of the 1951 National Health Service Act provided for charges to be paid by the means-tested National Assistance Board in certain cases as determined by the law.

As austerity gave way to the emergence of an affluent society, the Beveridge model proved increasingly inadequate in meeting consumers' expectations⁹⁴. In the context of continuous (though not excessive) inflation, debates arose concerning the inadequacy of flat-rate benefits. Across party lines, proposals emerged advocating the introduction of additional benefits to supplement the low basic pension. While maintaining the flat-rate scheme to cover basic needs, the National Insurance Act of 1959 introduced a graduated pension, financed through additional contributions linked to workers' earnings⁹⁵. Despite the option of 'contracting out', one can observe here the origins of a progressive shift from flat-rate to earnings-related benefits⁹⁶ – an overall process that would be completed with the Social Security Act of 1975⁹⁷.

Simultaneously, as the number of National Assistance recipients gradually

⁹¹ About this socio-economic scenario, R. Eatwell, *The 1945-1951: Labour Governments*, London, Batsford Academic, 1979; K. O. Morgan, *Labour in Power. 1945-1951*, Oxford, Oxford University Press, 1984; A. Cairncross, *Years of Recovery: British Economic Policy 1945-51*, New York, Methuen, 1985; T. E. B. Howarth, *Prospect and Reality: Great Britain 1945-55*, London, Collins, 1985; P. Calvocoressi, *The British Experience. 1945-1975*, Harmondsworth, Penguin Books, 1978; C. D. Barnett, *The Audit of War: The Illusion & Reality of Britain as a Great Nation*, London, Macmillan, 1986.

⁹² *National Health Service Act* [1951], 14 & 15 Geo. 6, c. 31 and *National Health Service Act* [1952], 15 & 16 Geo. 6 & 1 Eliz. 2, c. 25.

⁹³ I. MacLeod, J. E. Powell, *The Social Services. Needs & Means*, London, Conservative Political Centre, 1952, 30-32.

⁹⁴ J. K. Galbraith, *The Affluent Society*, New York-Toronto, The New American Library, 1958. For the British context, see C. A. R. Crosland, *The Future of Socialism*, London, Cape, 1956. See also R. Plant, *Supply Side Citizenship?*, in *Journal of Social Security Law*, 6, 3, 1999, 124-136.

⁹⁵ *National Insurance Act* [1959], 7 & 8 Eliz. 2, c. 47.

⁹⁶ See V. George, *Social security. Beveridge and After* [1968], London, Routledge, 2019 and T. Wilson, D. Wilson, *Beveridge and the Reform of Social Security – Then and Now*, in *Government and Opposition*, 28, 3, 1993, 360-363. See also S. Giubboni, *Il finanziamento della sicurezza sociale in Gran Bretagna*, in *Giornale di diritto del lavoro e di relazioni industriali*, 61, 1994, 101-141.

⁹⁷ *Social Security Act*, 1975, c. 14.

increased, a ‘rediscovery’ of poverty became visible as early as the 1960s⁹⁸. Confronted with the dilemma of relative poverty⁹⁹, it was suggested that the means-tested assistance model required comprehensive reform. As is well known, the Ministry of Social Security Act of 1966 recognised extensive supplementary benefits and marked the progressive revival of means-tested assistance¹⁰⁰. In practice, this measure can be regarded as the definitive abandonment of the Beveridgean welfare model. The Act established means-tested supplementary benefits payable to individuals with low incomes. The clear separation between assistance and contributory social security – strenuously defended by Beveridge and articulated in his plan as an expression of the guiding principles, assumptions, and methods outlined above – was thus repudiated¹⁰¹.

In some respects, the crisis of flat-rate contributions and the return to means-tested assistance appeared interconnected. Both developments revealed the difficulty of financing increasing public expenditure solely through general taxation. This situation led to a preference for schemes with greater redistributive effectiveness, such as charges, graduated benefits, or means-tested assistance. Focused on the poorest, and designed to compensate for the tax system’s inability to meet the growing demands of social benefits and national expenditure, selective assistance inevitably proved more redistributively effective than the universalism of social rights. In response to the tax-welfare backlash, governments began employing social welfare schemes as instruments to contain the rise in income tax, thereby mitigating public discontent and protest

⁹⁸ B. Abel-Smith, P. Townsend, *The Poor and the Poorest*, 1965. See J. H. Veit-Wilson, *Condemned to Deprivation? Beveridge’s Responsibility for the Invisibility of Poverty*, in (ed.) J. Hills, J. Ditch, H. Glennerster, *Beveridge and Social Security: An International Retrospective*, Oxford, Clarendon Press, 1994.

⁹⁹ See P. Townsend, *The Meaning of Poverty*, in *British Journal of Sociology*, 13, 1962, 210-227 and Id., *Poverty in the United Kingdom. A Survey of Household Resources and Standards of Living*, Harmondsworth, Penguin Books, 1979. See also the criticism of T. H. Marshall, *Poverty or Deprivation*, in *Journal of Social Policy*, 10, I, 1982, 81-87.

¹⁰⁰ See N. Harris, *Social Security Law in Context*, Oxford, Oxford University Press, 2000, 87-117. See also N. Wikeley, *Social Security Appeals in Great Britain*, in *Administrative Law Review*, 46, 2, 1994, 183-212; N. Wikeley, A. I. Ogus, E. M. Barendt, *The Law of Social Security*, London, Butterworth, 5th ed, 2022, 1-6; T. PROSSER, *Law and the Regulators*, Oxford, Clarendon Press, 1997.

¹⁰¹ R. Lowe, *A Prophet Dishonoured in His Own Country?*, in (ed.) J. Hills, J. Ditch, H. Glennerster, *Beveridge and Social Security: An International Retrospective*, Oxford, Clarendon Press, 1994, 118-133.

phenomena¹⁰².

4. Conclusion

The crisis of the Beveridgean insurance principle and the subsequent rediscovery of means-tested assistance can be seen as legal elements exemplifying a broader historical process. The revival of means-tested assistance led to a further transformation in legal theory, just as the initial shift from the insurance principle to means-tested assistance had done throughout the twentieth century. New lines of thought emerged, containing in embryo the potential to fracture the Welfare State consensus¹⁰³. Among conservative philosophers¹⁰⁴, there was a growing acceptance of means-testing, accompanied by criticism of the bureaucratic inefficiencies associated with comprehensive social services. However, the complaint against the «inherently totalitarian» nature of the Welfare State had already been voiced by Labour thinkers¹⁰⁵.

It is true that an international convergence towards human rights was taking shape¹⁰⁶. Furthermore, a surge in public expenditure, an increase in administrative regulations, and a definitive transition to a mixed economy tended to soften the long-standing dichotomy between law and social policy, thereby promoting a gradual shift from discretion to legalism¹⁰⁷. Alongside the expansion of State planning and social spending, however,

¹⁰² See H. Glennerster, *Paying for Welfare*, Oxford, Basil Blackwell, 1985 and the last part of G. C. Peden, *The Treasury and British Public Policy: 1906-1959*, Oxford, Oxford University Press, 2000. See also C. Sandford, *Taxation and Social Policy: An Overview* and K. Judge, *Beveridge: Past, Present and Future*, both in (ed.) C. Sandford, C. Pond, R. Walker, *Taxation and Social Policy*, London, Heinemann, 1980, 1-12 and 171-189, respectively.

¹⁰³ This historical interpretation could be probably traced back to P. Addison, *The Road to 1945. British Politics and Second World War*, London, Quarted Books, 1977. See also D. Gladstone, *The Twentieth-Century Welfare State*, London, Macmillan, 1999.

¹⁰⁴ Philosophically, it is assumed that this direction started with I. Berlin, *Two Concepts of Liberty* [1958], in (ed.) H. Hardy, *Liberty*, Oxford, Oxford University Press, 2002 and F. A. Hayek, *The Constitution of Liberty*, Chicago, University of Chicago Press, 1960.

¹⁰⁵ R. H. S. Crossman, *Socialism and the New Despotism*, in *Fabian Tract*, 298, 1956, 24, recasting the legal categories of Lord G. Hewart, *The New Despotism*, London, Benn, 1929.

¹⁰⁶ D. Kennedy, *Three Globalizations of Law and Legal Thought*, in (ed.) D. Trubek, A. Santos, *The New Law and Economic Development: A Critical Appraisal*, Cambridge, Cambridge University Press, 2006, 19-73.

¹⁰⁷ J. T. Winkler, *The Political Economy of Administrative Discretion*, in (ed.) M. Adler, S. Asquith, *Discretion and Welfare*, London, Heinemann Educational Books, 1981, 82-134 e M. Adler, *The Justice Implications of 'Activation Policies' in the UK*, in (ed.) T. Erhag, S. Stendahl, and S. Devetzi, *A European Work-First Welfare State*, Göteborg, Centrum för Europaforskning, 2008, 95-131.

the debate between selectivity and universalism had already become pronounced. These two opposing positions were championed respectively by the (Hayek) Institute of Economic Affairs and Richard Titmuss¹⁰⁸.

In light of the historical trajectory outlined above, the crisis of the insurance principle also appears to have provoked a broader dilemma regarding universalism in social policy. This process culminated in the completion of a cycle moving from means-tested assistance to the insurance principle, only to return once again to means-tested assistance. While the universalism of the Beveridge model was grounded in the insurance principle, as opposed to the strict selectivity of the Poor Law code, the return to means-tested assistance reflects a broader crisis in the universalism of social rights. For these reasons, the crisis of the insurance principle and the subsequent reversion to means-tested assistance may be regarded as historically significant developments. They illustrate the gradual erosion of universalism and, in turn, allow us to identify key features marking the crisis of the Welfare State.

Undoubtedly, these trends – using Titmuss’s categories – were further intensified by the Welfare State crisis during the neoliberal era. Its aftermath allowed for the emergence of a shift from an «institutional-redistributive» model, primarily grounded in Keynesian economics and Beveridgean social policy, to a «residual» one based on means-testing and free market predominance – with almost mirror-like dynamics¹⁰⁹.

However, as this article has demonstrated, the origin of this process can be traced back to the initial shift from the insurance principle to means-tested assistance. This transition was already underway at the turn of the 1950s and 1960s, during a period of substantial bureaucratic expansion

¹⁰⁸ R. M. Titmuss, *Commitment to Welfare*, London, Allen & Unwin, 1976, 113-152. See also B. Jackson, *Richard Titmuss versus the IEA: The Transition from Idealism to Neo-Liberalism*, in (ed.) L. Goldman, *British Social Policy, in Welfare and Social Policy in Britain Since 1870. Essays in Honour of Jose Harris*, Oxford, Oxford University Press, 2019, 147-161.

¹⁰⁹ R. M. Titmuss (et al.), *Social Policy. An Introduction*, London, Hyman, 1974, 30-32. Titmuss divides between an «Institutional redistributive model of social policy» (organised through comprehensive social services with strongly redistributive taxation), an «Industrial achievement-performance model» (in which social benefits are linked with employment), and a «Residual welfare model» (in which the State aims at leaving full freedom to the market forces). The UK seems a forerunner even using ‘decommodification’ (G. Esping-Andersen, *The Three Worlds of Welfare Capitalism*, Cambridge, Polity, 1990), thereby distinguishing between liberal, conservative and social democratic welfare models. As D. Garland, *The Welfare State. A Very Short Introduction*, Oxford, University Press, 2016 claimed, the British experience – albeit complex to classify – seems to offer a paradigm of the shift from post-WWII universalism to the residual model.

and growing public expenditure that reflected a model of social policy markedly different from that later advocated by neoliberals. From this perspective, the gradual shift from the insurance principle to means-tested assistance reveals that the Welfare State crisis cannot simply be attributed to the post-1980s strategies of privatisation and retrenchment. Especially from a legal standpoint, the contemporary dimension is far more complex¹¹⁰. The crisis is also rooted in the proliferation of citizens' rights and claims, the structure of fiscal distribution, and the financing of social expenditure, all situated within a broader public-private moral duty and an enduring historical relationship deeply embedded in the cultural discourse upon which the law continuously draws.

As noted in the introduction, although the primary objective of this study has been historical, the trajectory traced here may prove useful in understanding certain current issues. History and its intricate interactions can offer valuable insights for contemporary legal scholarship. By examining the shift back towards means-tested assistance and thereby highlighting some dimensions of the Welfare State crisis, European jurists may gain a deeper understanding of the complexities of present-day challenges. Legal scholars can recognise that the crisis of the contributory principle and the re-emergence of means-tested assistance – reflecting a broader and ongoing crisis in the universalism of the welfare model – are deeply rooted in complex historical developments.

A first suggestion arising from this study, which may be of value, is as follows: jurists examining the contemporary legal aspects of welfare should not limit their analysis to events following the oil crises of the 1970s; rather, they should also investigate the internal transformations that occurred during the *Trente Glorieuses*¹¹¹. It is undeniable, as previously discussed, that the crisis of universalism was ultimately sealed by neoliberalism. However, it is equally clear that the roots of this crisis were already visible, as this article has aimed to demonstrate, in the erosion of the Beveridge insurance principle and the subsequent shift towards the rediscovery of means-tested assistance.

A second suggestion, closely connected to the first, concerns the relationship between the legal dimension and collective solidarity. This article illustrates how the insurance principle, when situated within the framework of the national minimum, provided the normative foundation

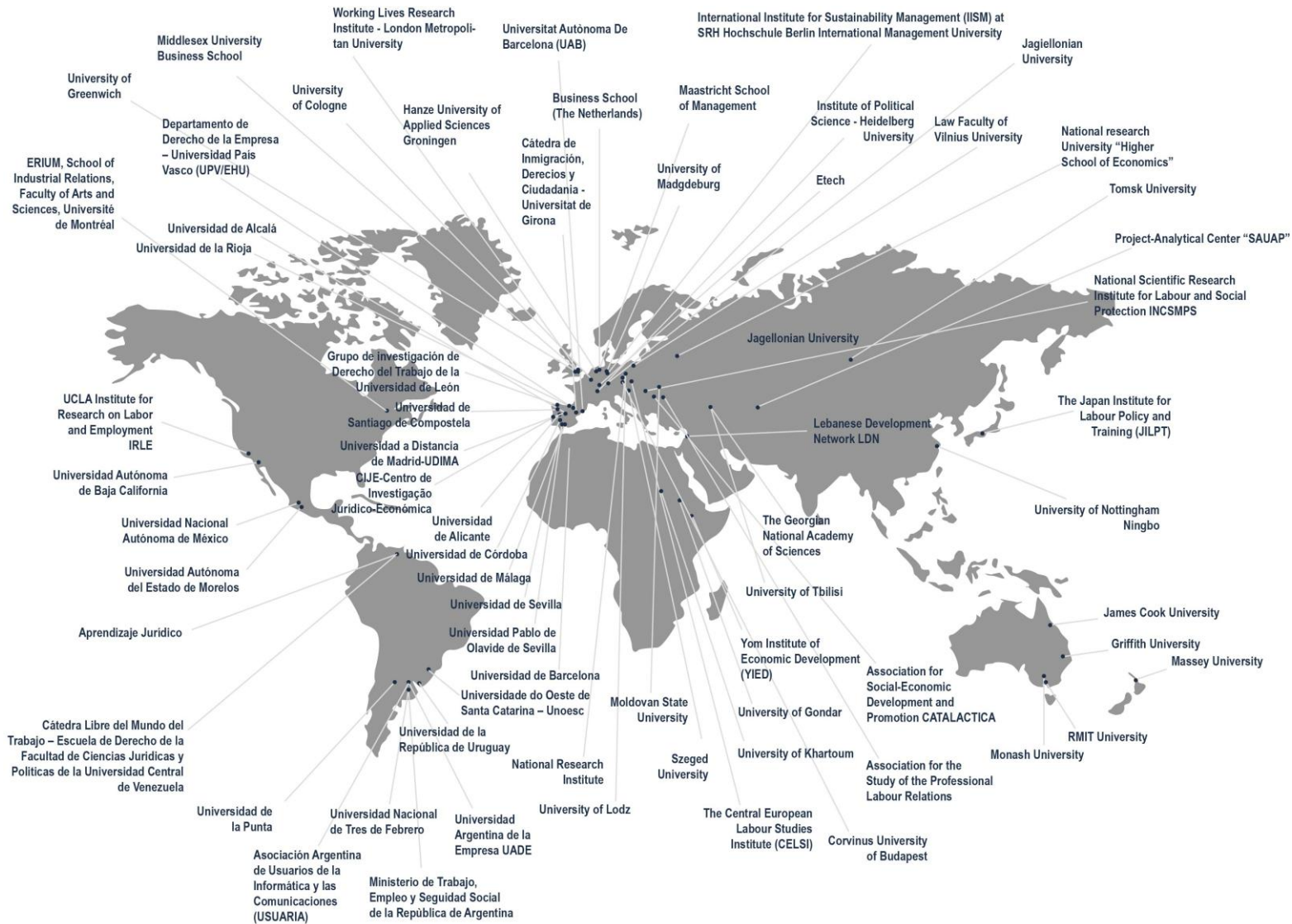
¹¹⁰ See N. Harris, *Law in a Complex State. Complexity in the Law & Structure of Welfare*, Oxford, Hart, 2013.

¹¹¹ J. FOURASTIÉ, *Les Trente Glorieuses: ou la révolution invisible de 1946 à 1975*, Paris, Fayard, 1979.

upon which to construct forms of collective solidarity capable of driving a comprehensive evolution within the legal system. The article does not seek to advocate a European return to the Beveridge model – an issue thoroughly explored by various scholars and for which no straightforward solution exists. Rather, it aims – perhaps more profoundly – to emphasise that the universalism set out in the Beveridge Report was directed towards establishing a normatively coherent, comprehensive, well-structured, and technically sound framework to promote solidarity as a fundamental legal value. The universalism of the post-World War II model was not merely aligned with policy objectives. While it certainly aimed to reorganise the administrative system, its deeper intent was to develop a broader vision of the interaction between law and society – a constitutional and legal project upon which to build a new form of (social) citizenship and a new type of (Welfare) State. The universalism of social rights, in a broad sense, sought to encourage solidaristic sentiments within society and among individual citizens, thereby promoting their «right to give»¹¹², meaning their entitlement (not merely a paternalistic obligation) to contribute or donate. From this perspective, the Beveridgean model may be regarded as a pivotal European landmark, serving as a source of inspiration for post-World War II constitutionalism, notably seen in the French Constitution (1946), the Italian Constitution (1948), and the German *Grundgesetz* (1949). This emerging concept of constitutionalism may be succinctly summarised as a project that, through the value of solidarity, aims to mediate between freedom and equality. It represents a legal framework that simultaneously recognises civil, political, and social rights, emphasising their inherent and indivisible nature. Amid the severe crises of the present – during which calls for reforms rooted in solidarity are intensifying – a common deficiency seems to persist across all European welfare models: the absence of a comprehensive framework capable of reinstating solidarity as a shared citizenship value. The historical path outlined above may prove useful in understanding the necessity of constructing a new normative model suited to contemporary society, while remaining committed to the same essential goal: advancing solidarity as a foundational normative value.

¹¹² R.M. TITMUS, *The Gift Relationship: From Human Blood to Social Policy*, London, Allen & Unwin, 1970, pp. 237-246.

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