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Claim and Blame: How Welfare Law institutionalises Deservingness

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Introduction

Within the subfield of 'gap studies' in the sociology of law,[1] the implementation of social rights arguably takes up an extreme position. While social rights including the right to work, the right to education and the right to health were already recognised in the Universal Declaration of Human Rights (UDHR) in 1948, their translation into enforceable doctrine and subsequent application have been uneven at best (Jensen & Walton, 2022). Beyond mapping these differences in broad strokes (Esping-Andersen, 1998), the focus of empirical investigations has been the analysis of specific instruments (e.g. targeting work, housing, education or health) in specific (local, municipal, state) contexts and stressed the importance of street-level practices, often echoing the seminal work of Michal Lipsky (1980). In this, the socio-legal examination of social rights[2] in practice is virtually inseparable from debates

[1] For the sake of this article, socio-legal, sociology of law and law and society approaches are treated as one (diverse) field, and the terms are used interchangeably.

[2] Here understood as entitlements and protections that individuals and communities have in relation to economic or societal goods and services, including education, health care, social security, housing, and employment.

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S. P. P. Nielsen and O. Hammerslev (eds.), *Transformations of European Welfare States and Social Rights*, Palgrave Socio-Legal Studies,
https://doi.org/10.1007/978-3-031-46637-3_2

in public administration and social policy, and indeed, the intertwined fields have produced valuable insights into the implementation of 'social rights as welfare law' in national and subnational contexts. At least since Aubert et. al.'s seminal work on the Norwegian Housemaid Act (Aubert, 1966; Aubert et al., 1952), scholars have generally tried to explain the 'gap' between law 'in the books' and law 'in action' not only by comparing expectation and reality, but by examining what happens within this 'gap' (Gould & Barclay, 2012; Nelken, 1981; Rosenberger & Küffner, 2016; Sarat, 1985). This includes the interaction (or, more often non-interaction) of welfare services (Bjerge et al., 2018; Forbess & James, 2014; James & Killick, 2012) and their reliance on brokerage and advice (Garay et al., 2020; Koch & James, 2022; Koch, 2018; Kulmala & Tarasenko, 2016; Small & Gose, 2020) in navigating the welfare state. With regard to decision-makers, many scholars move beyond the measurement of discretion and highlight the importance of concepts of deservingness that structures decisions (Chauvin & Garcés-Mascareñas, 2014; Heuer & Zimmermann, 2020; Oorschot, 2000; for a recent overview, see Ratzmann & Sahraoui, 2021).

While originally based on survey-based research, deservingness has become a useful heuristic in many examinations of public administration, as it captures the social legitimacy of claiming social rights (Oorschot et al., 2017). As such, they narratively anchor and justify the sharp categorisations between claimants and those not eligible for welfare—they justify who can claim rights, support and assistances, and who is to blame for their situation themselves. Deservingness conceptualisations explain why eligibility rules to specific programs still regularly filter wide access to social rights (Janssens & Van Mechelen, 2022). So far, the concept has mostly been applied as heuristic to explain the individual behaviour of policy-makers or street-level bureaucrats. In this paper, I argue that deservingness conceptualisations are enshrined in and live beyond social law that sets up welfare institutions and programs. More so than the letter of the law, the justification for targeting some, but not all in precarious situations takes on a social life of its own and informs the 'culture' of organisations as much as the individual decision-making of state officials.

This chapter argues that particularly within the field of welfare law, we have overstated the novelty of welfare conditionality as a specifically neoliberal form of welfare provision and overseen historical parallels as well as other forms of limiting access to welfare. The critique offered here is simple—simplistic even!—and applies to the author as much as any other colleague in the field: When studying the implementation of law, we place too much emphasis on the doctrine, narratives and debates on legal change, innovation

or reform and ignore the legal origins of persisting practices, understandings and tales. However motivated, this presentism is holding the sociology of law back from realising its full potential as alternative to public administration or social policy. As a result, we are failing to tap into the full potential of socio-legal analysis that includes a historical contextualisation of implementation.

The case made here is to play to the strengths of socio-legal approaches. While the usefulness of macro level welfare system-type comparisons has long been questioned, so have approaches that individualise policy application to the atomised discretionary decisions of street-level bureaucrats. More integrated meso level approaches—including those of this author (Eule et al., 2018)—tend to follow a Lipskian analysis of public administration in which the rhetoric, mechanisms and logics of novel legislation are analysed in context with organisational customs, habits or cultures (Lipsky, 1980). In my own work, I have shown how migration officials in Germany struggled to incorporate new legislation that focused on integration requirements in order to activate migrant participation in German society with their established ways of working and understanding of migration control (Eule, 2014, Chapter 3). Here, officials rejected more neo-liberal policies because they saw immigrants as cases or subjects and not clients. However, what I failed to make plain was how this 'organisational culture' was in many ways merely an institutionalisation of previous iteration of migration law. From the first iteration as *Ausländerpolizeiverorndung* (ordinance on the foreigners' police) in 1938 up to 2003, migration law had been part of administrative police law (*Polizei- und Ordnungsrecht*) that focuses on local hazard prevention (*Gefahrenabwehr*) and systematically hindered long-term residence and naturalisation (Eule, 2014; Groß, 2004). Officials resisted integration policies not because they were anti-immigration, but because they could not fathom that migration law was about integration.

This chapter calls for socio-legal approaches on law in practice not to replace the 'black box' of implementation with the 'black box' of organisational culture, but rather, to take the (socio-) legal history of institutions seriously. It argues for applying the analytical tools on novel legislation—which examines its content and mechanisms as well as its narratives and underlying assumptions of human behaviour—to existing laws and policies. This is particularly relevant to the analysis of welfare law, as institutions delivering social support were for the most part created through welfare law and did not precede it.

To illustrate the argument, the chapter will (1) point to the ubiquity of deservingness considerations that underlie welfare conditionality. However,

rather than a neo-liberal phenomenon, it (2) argues that all welfare policies (or indeed all law, cf. Janger & Block-Lieb, 2006) have certain underlying assumptions about human behaviour that structure eligibility mechanisms. By (3) examining the recent ECtHR decisions on Beeler v Switzerland, it will show the explanatory potential of historical contextualisations of welfare law for the analysis of policy implementation.

Social Rights in Action: The Rise and Rise of Welfare Conditionality

While the development of the modern welfare state can be traced back to the nineteenth century, the history of promulgating and implementing social rights in Europe is usually seen to begin with the adoption of the European Convention on Human Rights (ECHR) in 1950, which included a number of social rights provisions, such as the right to education (Article 2, Protocol 1) and the right to social security (Article 14). However, given the immensely differing political opinions and welfare state structures in Europe, it is unsurprising that these aspects of the ECHR were among the most contested and thus received only limited attention in the case law of the European Court of Human Rights (ECtHR) until the 1970s and 1980s (Demir-Gürsel, 2021; Duranti, 2021). Of course, the subsequent rise in (at least partly successful) social rights litigation at the ECtHR level coincided with the first post-war shocks to the welfare state and state budgets, as well as the rise of what we now call neo-liberal critiques of a perceived bloated welfare system. While the linkages between social and economic inequality and violations of civil and political rights have now been widely accepted as empirical reality (Cismas, 2014; Therborn, 2014), and even though the ECtHR is seen as a prime example of the judicialisation of politics (Hirschl, 2011), there are comparably few ECtHR decisions on social rights. Rather, the ECtHR tends to defer to the judgement of national authorities and institutions, which may be more sympathetic to political and economic considerations than social rights.

Notwithstanding the aforementioned human rights standards, as well as reporting and collective complaints system provided through the European Committee of Social Rights (ECSR), national legislation remains the anchor for social rights definition and implementation. Within the context of European national social policies, a lot of attention has been given to law reforms that have collectively seen a contraction of welfare provision through the

introduction of budgetary cuts and the attachment of conditions or requirements to the granting of welfare benefits (Pierson, 1994; Rodger, 2012). This new era of welfare conditionality, which is most fully realised in the United Kingdom but can be found in welfare policies throughout Europe, consists of a number of related mechanisms of selecting those 'truly' in need and barring those who are not seen as meriting social protection from access to welfare systems (Dwyer, 2019a; McGann et al., 2020; Reeve, 2017; Watts & Fitzpatrick, 2018)—many of which are explored in this volume. These mechanisms include forms of means and ability testing, programs requiring active or activated participation, predictive analyses of future behaviour and sanctions for non-compliance or incentives for proactive conduct. They often claim to be more efficient, effective or at least less costly and commonly introduce market-like relations between 'clients' and 'providers', attempt to streamline, managerialise or digitise welfare agencies, and seek to incorporate private or newly privatised actors in the provision of welfare. While claiming to be evidence supported, these programs find limited success in changing organisational structures (Dent et al., 2004; Dunleavy et al., 2006; Haque, 2007; Lapuente & Van de Walle, 2020), are in danger of setting false market incentives (Ahmad, 2002; Hevenstone, 2016) and can have adverse effects on welfare provision (Dalingwater, 2014; Fletcher & Flint, 2018; Forbess & James, 2014; Koch, 2018). Crucially, as they reformulate who can access certain social rights under what conditions, they increase the linkages of legal fields within administrative, public and criminal law. As a result, both migration law and criminal law become ever more important tools of selecting denizens that can fully or partially access the welfare state by proving certain forms of (re)integration, activation and participation (Joppke, 2021; Kiely & Swirak, 2021; Maggio, 2021).

While they share certain commonalities, due to their different mechanisms of inclusion or exclusion, the different policies bundled under the label of welfare conditionality work rather differently in practice. As the universality of social rights claims clashes with the boundaries of welfare budgets, social policies rationalise who can claim benefits, and what is to blame as cause for their predicament (McNeill, 2020). Often, the conditionality mechanism is directly related to an underlying assumption of how benefit claimants—however they might be called—behave and why they are in situations of need. Crucially, these assumptions do not reflect the reality of lived experiences, but often stem from particular political or public tropes about the poor, or are informed by certain shorthand assumptions of human nature. Put broadly, they each hold a conceptualisation of how individuals should behave within their community, provide reasons for individual deviance

from this behaviour as well as steps necessary to achieve 'proper' societal participation. With the generation of welfare policies lumped under welfare conditionality, these behaviours, reasons and steps are generally heavily individualised. Unemployment thus becomes not an issue of macroeconomic trends such as globalisation, deindustrialisation or digitalisation, but of a lack of recruitable skills, or a lack of self-marketing on the labour market, or inertia caused by long-term non-participation in the workforce. As successful members of the labour force engage in lifelong learning/constantly evaluate their career options/go above and beyond their hours or quotas, unemployment programs focus on training/application and interview support/activity provision. Failure to reattain employment becomes an individual failure and might be penalised. Failure to find suitable accommodation becomes an individual failure.

Famous examples for this include the continuing re-evaluation of an individual's fitness for employment through work capability assessments. Here, persons with disabilities or chronic illness undergo regular testing to establish whether they could conceivably re-enter the labour market, even if on a temporary basis. The underlying assumption here is that people are abusing the generosity of the welfare system by overstating their health or disability claim and thus artificially removing themselves from the labour market. Individuals that are seen capable of working are usually required to participate in job seeking and/or retraining programs in order to retain a similar level of social support they did previously. Failure to comply can lead to further reductions in benefits. The academic reception of these programs has been largely negative, often citing adverse effects on the health of those that have to undergo these tests and pointing to the fact that work capability assessments tend to shift people from nonemployment to unemployment status, but do not actually activate them into employment (Barr et al., 2016; Cerletti, 2019; Dwyer et al., 2020; Hansford et al., 2019; Hassler, 2016). Other examples include attempts to incentivise people's reintegration into social services by punishing non-compliance. In the case of homelessness, this has seen places and spaces for rough sleeping drastically reduced and practices relating to homelessness—beyond rough sleeping also begging and certain uses of public spaces—being penalised. The underlying assumption here is that homelessness is a choice and a form of deviance that needs addressing through mechanisms of criminal law rather than social work. From a welfare conditionality perspective, homelessness is not linked to a lack of affordable housing or drastic changes to neighbourhoods due to tourism and gentrification, but due to a lack of skills in house hunting, too high expectations or a general lack of integration into society (Benjaminsen & Busch-Geertsema,

2009; England, 2020; Kudla, 2023). A successful tenant knows how to present herself as one or accepts the confines of accommodation available to her budget, or is a reliable user of other welfare programs. However, rather than improving the living conditions of displaced persons, this criminalisation of homelessness is seen to have had adverse effects on their security, health and their access to institutions (Evangelista, 2019; Karabanow et al., 2010; O'Sullivan, 2019; Reeve, 2017; Rodger, 2012). A further example is the increasing interlinkage of migration control and the welfare state. These policy responses assume that individuals are motivated to migrate into welfare systems. As a result, residency can be revoked upon receipt of certain kinds of welfare and welfare offices and healthcare providers—often unwillingly—become agents of migration control with registration and reporting duties. This too is often criticised, as it adds additional administrative duties and often deteriorates the relationship between officials and clients (Borrelli et al., 2021; Kootstra, 2016; Lanfranconi et al., 2020; van der Woude & van der Leun, 2017).

These examples illustrate how law reforms that aimed to make access to welfare conditional upon socially or politically acceptable behaviour—being 'truly' ill or 'truly' fit for work, rejecting deviant practices or resisting the pull of the welfare system of the destination country—are based on underlying assumptions that many find fault with, and that might have devastating effects on those excluded from the mechanisms of social protection. Indeed, these forms of reforms are often affiliated with neo-liberal ideologies that attempt to dismember the welfare state (Ahmad, 2002; Dwyer, 2019b; Pierson, 1994), and some of the adverse effects of these reforms are further explored in this volume. The mechanisms involved and their impact particularly on those at the margins of the state are important topics of research. However, it is important to emphasise that they are not new.

Who Deserves Social Rights, or the Limits of Welfare Universalism

The history of the provision of social welfare is the history of the selective provision of social welfare. For one, the systemic exclusion of minorities from societies also applied to the emerging welfare systems, in principle and practice, in Europe and abroad (Gordon, 2007; Lund, 2002; Welshman, 2013). Even more important for this chapter, studies on the history of welfare law have illustrated how the same underlying assumptions and concerns about

welfare abuse that we find in welfare conditionality programs have permeated throughout the late nineteenth and twentieth centuries. Thus, we can find similar discussions around the amendment of the British poor law of 1834 (Charlesworth, 2009; Dunkley, 1981; McCord, 1969; Wright, 2000). Here, new forms of (national) standards and administration were introduced to better control access to poor relief, which, as Charlesworth (2009, p. 3f.) argues, had been constituted as a social right at the beginning of the nineteenth century. Indeed, many point to the fact that the introduction of the infamous workhouses in which impoverished people lived and worked under gruelling conditions was a direct result of the perceived abuse of poor relief and an attempt to 'activate' individuals and motivate them to seek employment in cities rather than on land (Watts & Fitzpatrick, 2018, p. 3). Other scholars point to similarities between both mechanisms and underlying assumptions of welfare provision, comparing the past thirty years to Victorian times (Taylor, 2018), the depression era 1930s (Cooper, 2021) or the interwar period (Welshman, 2017). From this perspective, the introduction of neo-liberal forms of welfare reforms at least in the United Kingdom is less of a rupture as a recurring theme in the history of the welfare state. As a result, Cooper (2021, p. 338) argues that 'after a social democratic interlude, UK social policy may be reverting to type', indicating that important attention needs to be paid to the legal history of welfare law.

Furthermore, even though some 'welfare models' laid claim to universality—and were indeed more generous than those of other national contexts—virtually all systems of welfare have practised welfare conditionality. And while they might not have contained the identical underlying moralism, they too entailed deservingness conceptions. For one, almost all welfare programs rely on some form of categorial exclusion—of non-citizens, or non-residents at the very least, but historically, also along social constructions of difference such as gender (Mandel & Semyonov, 2006; Orloff, 1996; Orloff & Laperrière, 2021) or race and ethnicity (Freeman & Mirilovic, 2016; Scarpa et al., 2021; Schmidtke & Ozcurumez, 2008). Indeed, the conflict between inclusive welfare claims and excluding policies has been analysed as a particularly European dilemma (Sainsbury, 2012; Schierup et al., 2006) that persists until today, despite the establishment of human rights obligations. Secondly, even 'truly' universalist welfare programs often struggle to include particularly marginalised or hard to reach groups, and include registration requirements that might be difficult to fulfil for some. Thus, people living in precarious housing arrangements might not be able to provide the proof of address required in order to sign up for universal health care, language barriers, illiteracy or health impediments might cause people

to miss or not be aware of deadlines or entitlements altogether. This might be exacerbated by digitalisation efforts in the welfare state (Buchert et al., 2022; Molala & Makhubele, 2021; Nielsen & Hammerslev, 2022; Schou & Pors, 2019).

Historically, deservingness conceptions often relate to previous labour market participation—for example, all the first national social insurance programs in Sweden, Norway, Denmark and Finland required residence, employment and payment of insurance premiums to be eligible for welfare (Kautto, 2010). Indeed, the (continuing) use of the term 'insurance' for welfare services points to an individualised understanding of social protection for contributors and questions the (full) eligibility of non-contributors. And while these eligibility criteria have subsequently been widened, scholars point to the persistence of eligibility criteria and assumptions of deserving workers. For example, Kildal and Kuhnle note that access to the Norwegian pensions system was only truly universal between 1959 and 1967 (Kildal & Kuhnle, 2005). In 1930s Finland, welfare policies included both universalist programs and interventions that were based on 'rationalised treatment of poverty' and 'preventive criminal law' (Kettunen, 2006). In their overview on vagrancy laws in Sweden, Andersson points to the persistence of workfare-like forms of social intervention that sought to improve a person's situation through activation—work training (Andersson, 2017). This is seen as intrinsically linked to the ideal of the 'conscientious worker' (Ambjörnsson, 1989; Nilsson, 2013)—a deeply moralistic conception of appropriate behaviour that influenced vagrancy and drug policies in Sweden until the mid-twentieth century.

Another area in which sharp distinctions between those deserving of support and solidarity and those deserving of punishment and moral rejection is family support. Feminist socio-legal scholars have long-linked family policies to underlying 'foundational myths' of 'traditional' family units as autonomous groups (Fineman, 2000). As a result, non-traditional nor traditional but non-majoritarian forms of family often struggle to realise their right to family (Askola, 2011; Kraler & Bonizzoni, 2010; Ramos, 2011). This is particularly relevant in the case of childcare, where depending on evaluations on the best interest of the child social support can be provided within the family context or outside of it. Here, too, the 'interest' of children is laden with moral conceptions about who makes good, stable or nurturing parents, of what makes a 'nuclear family' and about the 'traditional' division of household and care tasks (Cicchino, 1996, 2000; Olk, 2007).

In all of these cases, these conceptions of good or deserving human behaviour are enshrined in social law. They are also, but not only political narratives, socio-political tropes and moral panics, but they inform the construction of eligibility criteria and shape the mechanisms through which access to social rights is granted. And because they form part of the law, they tend to change slower than debates in the media or politics. Given that in many European countries, welfare institutions have been largely stable since at least the Second World War, it seems important to take the impact of deservingness-through-law seriously.

The Long Shelf Life of Paternalistic Assumptions: Beeler v. Switzerland

In 1994, Mr. Beeler quit his job for an insurance company to care for his two young daughters following the death of his wife in an accident. The compensation office (*Ausgleichskasse*) of the Canton of Appenzell, Outer Rhodes, granted him bereavement benefits to support him. However, in 2010, following the 18th birthday of the younger daughter, the office terminated the payments, based on Sections 23 and 24 of the Federal Law on old-age and survivors' insurance (OASI), which holds that widowers were only entitled to benefits while caring for underage children, while widows remained eligible beyond that. Beeler lodged an objection to this decision on the principle of gender equality and subsequently appealed to the Cantonal and Federal Supreme Courts. In all instances, Beeler lost his appeal. He then brought his concern to the European Court of Human Rights, which decided in a grand chamber judgement (Beeler v. Switzerland, 2022) that the applicant's rights under Arts. 8 (right to family) and 14 (discrimination prohibition) of the ECHR had indeed been violated by the Swiss authorities.

While many aspects of the case merit closer attention (Margaria, 2022; Observers, 2023), what is striking for the purpose of this chapter is the unanimity with which compensation office and Cantonal and Federal courts had defended the decision to terminate bereavement benefits. Each acknowledged the existence and relevance of the non-discrimination clause in Section 8 of the 1999 Swiss Constitution and the existence of the 1996 equal opportunity act, but held that the historical reasoning for the introduction of bereavement benefits trumped anti-discrimination considerations. For example, the Federal Court acknowledges the provision of Article 8 of the Swiss Constitution, under which distinctions on grounds of sex can only be justified 'where the biological or functional differences between

men and women rendered equal treatment quite simply impossible' (Federal Court *9C_617/2011, 3.4*), and also acknowledges that the principle of the widower's pension, which presupposed the husband providing or their spouse, 'did not impose' itself on the legal scholar as justifiable exception to Article 8 (ibid., 3.5). However, as the legislator had passed the law aware of this, the court did not see its role to challenge the decision and pointed to the fact that Switzerland had not ratified the first additional protocol of the ECHR. Introduced in 1948 through the government's emergency powers in the continuing state of siege in Switzerland, the *Wittwenrente* (widow's pension) only applied to women. This was based on the assumption that women took care of the household and were thus cut off from income following their spouses bereavement (Armingeon, 2018; Binswanger & Binswanger, 1986; Luchsinger, 1995). In 1997, the scope of the pension was expanded to men, but only while they took on household duties. The reasoning behind this uneven roll-out was replicated in all official defences of the termination: Even if they stopped working while caring for their underage children, it could be assumed that men—in contrast to women—would easily reintegrate into the labour market. This assumed comparative advantage of male participation in the labour market was accepted by the office, Cantonal and Federal Courts as sufficient to warrant differential treatment without causing discrimination. Indeed, the federal government even referred to the persistence of the *male breadwinner model* in its argumentation in Strasbourg and attempted to provide statistics to bolster its claim. The grand chamber, however, rejected the line of argument, pointing out that 'the Government cannot rely on the presumption that the husband supports the wife financially (the 'male breadwinner' concept) in order to justify a difference in treatment that puts widowers at a disadvantage in relation to widows' (Beeler v. Switzerland, 2022, para. 110). Accordingly, it holds that 'the considerations and assumptions on which the rules governing survivors' pensions had been based over the previous decades are no longer capable of justifying differences on grounds of sex' (Beeler v. Switzerland, 2022, para. 113).

As the court points to the underlying 'considerations and assumptions' on which the OASI had been based, so should we pay attention to them. Switzerland is notoriously a late comer in gender equality, having established women's suffrage only in 1971 and gender equality as constitutional right only in 1981 (Eidgenössische Kommission für Frauenfragen, 1999). However, linking the aforementioned considerations and assumptions—the deservingness conditions of the OASI—simply to the general patriarchal

state of Switzerland seems too simple. In this particular case, the underlying assumptions of the widow's pension trumped all established anti-discrimination mechanisms that were promulgate (however late) to prohibit these forms of unequal treatment. This is thus not an issue of organisational or national culture, but of law and legal history. Including it into our analysis of implementation decisions thus sharpens our gaze. Crucially, this does not mean that we should assume that legal doctrine—'black letter law'—should take precedent over law in practice. It would be a folly to suggest this, given the overwhelming evidence to the contrary. However, when analysing the implementation process as a form of reconfiguration of the law (Falk Moore, 1978), we should bear in mind how all actors involved—officials, mediators and supporters, clients as well as judges and doctrinal commentators—not only refer to the text, but also the perceived 'spirit' of the law, and examine how long-held perception of what a law is about shape peoples interpretation of law reform. If policy application is conducted in spaces of asymmetrical negotiation (as we have suggested elsewhere, see Eule et al., 2018) where all actors have a—albeit limited—capacity to shape the outcome, the importance of expectation management should not be understated. This is particularly true in welfare systems that have adapted welfare conditionality mechanisms, where access to social rights is dependent on being claim-worthy, not blame-worthy.

Conclusion

Taking deservingness conceptions that govern welfare law seriously helps contextualise too-often individualised decision-making. The tension at the heart of access, eligibility or punishment decisions is often between conflicting legal notions of deservingness that have been or are being institutionalised. Paying close attention to this might help explain how in some cases, offices readily adopted neo-workfarist 'cultures of suspicion' (Affolter, 2022; Borrelli et al., 2022; Laszczkowski & Reeves, 2017), whereas in others, the resisted (Broeders & Engbersen, 2007; Leerkes et al., 2012; Ridgley, 2008). Questions of policy reform 'impact' or 'failure' might depend on the extent to which underlying assumptions of new legislation clash with those of existing ones, or in how far they 'revert to the norm' (Cooper, 2021).

Furthermore, examining these underlying deservingness conceptions in law may help us understand the behaviour of welfare applicants and recipients better, as these ideals do not only shape the evaluation of street-level bureaucrats, but also for categories that can be selectively inhabited or appropriated

by claimants, and form part of everyday tactics of resisting or selectively using the welfare state (Luna, 2009; McCormack, 2006; Miller, 1988; Scheel, 2017a, 2017b).

This chapter thus calls for a more contextualised empirical investigation into the application of welfare law. The resounding interest in the myths, tropes and behaviourist models underpinning welfare retrenchment should be made analytically fruitful by extending it to other, older and less politically contested forms of welfare provision. Despite universalist proclamations, they all entail conceptions of who deserves (more) social rights protection. Uncovering the deservingness conceptions would greatly enhance the sociology of law's claim to the analysis of policy implementation and advance socio-legal analyses of processes pertaining to transforming welfare rights into practice.

Acknowledgements I would like to thank the participants of the workshop '*European Welfare Rights in Practice*' for their valuable input. Special thanks to the editors of this volume for their excellent feedback and their boundless patience.

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