The Poor Laws of Scotland and England:

Key Differences in the Nineteenth Century

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Abstract

The Poor Laws in the United Kingdom have been in existence for over four centuries. Although the Poor Laws of Scotland and England initially came from similar foundations, by the nineteenth century, the two systems had become distinctly separate. These distinctions can be seen by the historical numbers of people receiving indoor versus outdoor relief, the way each country preferred to fund relief for the poor, and the treatment of single mothers.

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The Poor Laws in the United Kingdom have been in existence for over four centuries. Although the Poor Laws of Scotland and England initially came from similar foundations, by the nineteenth century, the two systems had become distinctly separate. A study of the nineteenth century application of the Poor Laws for each country demonstrates this. These distinctions can be seen by the historical numbers of people receiving indoor versus outdoor relief, the way each country preferred to fund relief for the poor, and the treatment of single mothers.

In the United Kingdom, the object of the Poor Law was "to afford relief to the destitute poor under such conditions, as may be the least injurious to themselves, and to the community at large" (Purdy 27). England's first major law regarding the poor was the 14th Elizabeth in 1572. This act outlined how idle beggars should be treated as well as who was eligible for poor relief (Nicholls, *English Poor Laws* 16). In 1662, England instituted the Settlement Laws that recognized the practice of returning paupers requiring relief to their parish of birth. In 1723, the parishes instituted the "workhouse test", requiring a person applying for relief to enter a workhouse and work in exchange for relief. The parishes instituted this to discourage casual claims. Only the truly desperate would apply to 'the house'. In 1782, England passed the Gilberts Act allowing groups of parishes to form unions to share in the cost of providing relief. These poor houses provided refuge for the old, sick and infirm. The act explicitly excluded able-bodied paupers. The parishes would offer some form of outdoor relief or employment near their homes. By 1796, the parishes provided outdoor relief without the workhouse test due to a period of widespread distress and unrest (Bloy). The Poor Law amendment of 1834 in England brought about some distinct changes to poor relief as discussed in this paper.

The Scottish Poor Laws date back to the fifteenth century. Scotland based the statute of 1579 in part on the English 14th Elizabeth. The 1579 statute established that all parishes were to be responsible for their own poor and that only certain categories of people were eligible for relief. The act also provided that parishes could levy a poor rate but this did not happen in practice. In fact, by the 1790's less than one hundred of the 878 parishes imposed a poor rate (*Scottish Archive Network*). The lack of interest of the English Anglican Monarchs in the Scottish system explains the divergence or separation of the two Poor Law systems in 1603. The Scottish system evolved on its own with minimal English interference and remained based on the 1579 statute until the amendment of 1845, despite many changes in the English system (Cage 87).

Each country approached relief of the "able-bodied" pauper in distinctly different ways. During the nineteenth century in England, the able-bodied pauper was eligible to receive indoor relief in exchange for working, mostly in the workhouses. In Scotland, "the 'able bodied,' as such, have no legal claim to relief in Scotland" (Purdy 30). The "sturdy beggar" was not entitled to support by law, but in reality, many still received relief (*National Archives*). This was a distinct difference between England and Scotland. The qualification for relief in Scotland was "destitution coupled with disability to earn a livelihood" (Jones 187). Parishes offered relief to the "destitute only, or, to use the new and *synonymous* term, the necessitous" (191).

The Scottish parliament based the change in the Poor Law Amendment of 1845 on data that was not entirely accurate. The Poor Law Commission of 1844 initially intended to distinguish between two types of assistance, that given to those suffering temporary sickness, and those suffering from "casual failure of trade" or unemployment. When the commissioners traveled to the various parishes, they failed to preserve the distinction and a skewed set of

statistics resulted. It showed that one in five people who were receiving relief were "able-bodied." The numbers did not reflect those who were ill and those who were simply unemployed. The commission considered twenty-percent high and as a result, the parliament restricted access to relief for the able-bodied (Levitt 176).

The parishes in Scotland used the poor houses primarily to house those who could not receive outdoor relief. The percentage of paupers receiving indoor versus outdoor relief in Scotland was less than that of England. A *Census of Paupers* study in 1859 found concerning Scotland that "out-door relief is the rule – relief in the poorhouse the exception" (Purdy 30). The study found that of 119,453 people receiving relief, only about 6,000 were living in poor houses. Compare this to England where of 865,446 persons receiving relief, 121,232 were living in poor houses. This is a 6 to 1 ratio in England versus a 13 to 1 ratio in Scotland clearly indicating a difference in philosophy towards poor relief. As a further comparison, a review of Ireland's census report in 1859 presents an even more skewed ratio of indoor relief. Of 41,617 paupers receiving relief, only 1,248 were receiving outdoor relief (30). Scotland was clearly more prone to outdoor relief than the other countries and in fact, it was not until the 1859 census report that the census made a distinction between indoor and outdoor relief (29).

In England, the commissioners viewed outdoor relief unfavorably. The commissioners argued that it was difficult to test the applicant's destitution. They felt that it presented the possibility that the employers would divert the monies meant for the workers to other uses. A large amount of outdoor relief excited suspicion that a Union or parish was poorly managed (Purdy 29).

Another difference was how each country provided the funding for people receiving relief. The history of the Poor Laws indicates that England did not rely on private contributions

as a source of funds. England levied taxes or a "compulsory assessment" on the citizens of each parish. However, in Scotland, the funding was primarily from voluntary contributions made to the church parish (Cage 84-85). It was not until 1672 that legal assessments were permissive in Scotland. The parishes often did not enforce an assessment until 1740. A statement in reference to the parish of Tongue, in Sutherland, expressed a common feeling towards assessments: "I have always entertained an apprehension of assessments, inasmuch as they have a tendency, in my opinion, to weaken the spirit of independence in the people, and make them rely on others for support" (Loch 291). The sense of independence was very important in this matter. A person is more likely to feel better about receiving help from fellow Scotsmen than if the law forced their fellow Scotsmen to help them. The Scots also felt that a "compulsory assessment" was dangerous. If paupers knew that assessments were required of the parishioners, then they would come to expect relief. Scotland's belief was that if the contributing were voluntary, those people receiving relief would feel more grateful and be less likely to abuse the system (Cage 84-85).

However, the idea of voluntary assessments met some difficulties in the eighteenth century. In 1774, Inveresk based its relief on voluntary assessments. It involved promises of support for 208 pounds from the heritors. Each of these heritors agreed to contribute five pounds a year. By 1778, the voluntary contributions had diminished each year and the parish imposed a full legal assessment. In some instances, involuntary assessments would be temporarily necessary during periods of food shortages or lack of demand for goods produced. This would cause hardships and people were less likely to contribute voluntarily. In general, the parishes appeared to be very generous in the giving of alms, but as in most societies, hardships arise that affect the entire society (Mitchison, *The Making of* 63*)*. These hardships along with many other forces caused assessments to become more commonplace during the nineteenth century. In

1865, only twenty years after the new Poor Law Amendment, only 108 parishes were *unassessed*, and in 1891, only 49 were unassessed (Loch 321). This is a strong contrast to above statistic of less than 100 unassessed parishes in the 1790's.

How the two countries treated single mothers differently during the nineteenth-century was an important difference between the countries. Single mothers were broken down into two categories, widows and unmarried mothers of illegitimate children. One of the primary issues was how each country addressed mothers of illegitimate children. This, in turn, affected how each country addressed fathers who were not providing financial support for their illegitimate children. Legitimacy disputes could arise in two ways: when the children were born in a marriage but it was impossible for the husband to be the father and the children were not the issue of a lawful marriage (Leneman 46).

The treatment of single mothers in England saw a change in the amendment of 1834 in which the parliament eliminated parish support for illegitimate children. In sections 67-71 of the amendment, it moved to:

> Repeal acts relating to the reliability and punishment of the putative father of a bastard, and to the punishment of the mother. They also render null securities and bonds of indemnity given to the parish for bastards. The mother of an illegitimate child is declared liable for its support…. By sections 72-76, on application of overseers the Court of Quarter-Sessions may make an order on the father of a bastard for maintenance. Testimony corroborative of the mother's evidence must be produced. No part of the money may be applied to the support of the mother. The wages of the father refusing to pay may be attached. (Nicholls, *English Poor Laws* 150)

The law declared the mother solely responsible for the child's support. This also clearly stated that the worst that could happen to the father of an illegitimate child was a civil action of wages garnished: "if the man denied paternity, it could lead to appeals and further judicial business and expense" (Brundage 15).

In Scotland, the actions against fathers who did not support illegitimate children were more stringent. In the Poor Law Amendment of 1845, it was clearly stated:

> Every husband or father who deserts, or neglects to maintain his wife or children, being able to do so to do, and every mother and every putative father of an illegitimate child, after the paternity has been admitted or otherwise established, who refuse or neglects to maintain such child, being able to do so, whereby such wife or child becomes chargeable to any parish, 'shall be deemed to be a vagabond under the Scottish Act of 1579, cap. 74' and may be prosecuted criminally at the instance of the inspector of the poor of such parish, and if convicted is punishable by fine or imprisonment with or without hard labour, at the discretion of the sheriff. (Nichols, *Scotch Poor Law* 180-181)

This language was much more stern and stringent than the language in the English amendment. It clearly holds fathers legally as well as morally responsible for the children they have by declaring him a vagabond. This was punishable from a fine to imprisonment with hard labor.

In England, the change in the treatment of illegitimate was due to abuses found in the system before 1834. In the old system, the *intention* of the law was to compel the father to make payments to the parish contributing to the maintenance of the children. The *operation* of the law enabled the mother to receive weekly payments from the parish regardless of whether or not the father was contributing (Nichols, *English Poor Law* 315-316). Women often abused the system, which led the commissioners to recommend that the parliament abolish the practice completely: "This… is now the position of a widow, and there can be no reason for giving to vice privileges which we deny to misfortune" (316). The commissioners considered the mother of an illegitimate child equal to a widow in that she was not automatically entitled to relief due to "misfortune."

Judging the position of a single mother to be the same as that of a widow led to harsh treatment not only of mothers of illegitimate children but of single mothers in general. In the English system, "Central government directives discouraged relief to single women with only one child, and, if there were more children, recommended sending some of them into the

workhouse, leaving the mother to support herself and one child on her own earnings" (Brundage 122). The commissioners based this view on the fact that it was cheaper to keep families out of the workhouse. If the mother could afford to raise one child on her own wages, then it was logical to place the other children in the workhouses, unfortunately splitting up the family. This discouraged many women from seeking relief.

The English commissioners were also attempting to discourage promiscuity by having this law serve as punishment for having a child out of wedlock. The law singled out women alone to face the shame of having an illegitimate child. The commission considered this behavior immoral and to be discouraged (Haller). The authors of the 1834 report portrayed unmarried mothers as "scheming seductresses who entrapped young men into paying for their children" (Clark).

However, on occasion a widow and even a single mother would receive outdoor relief. If the parish considered a widow for relief, she had to meet certain tests of character. These included sobriety, cleanliness, not allowing her children to beg, and not having any male lodgers (Brundage 123). A survey completed in 1839 showed that in the Poor Union of Westhampnett (Sussex), which contained thirty-seven parishes, the popular view was that all able-bodied men and women should be committed to workhouses. This resulted in only three women and twelve children accepting this form of relief. This suggests that many single mothers went without relief and managed to make a living for themselves and their children (Nichols, *English Poor Law* 302).

The Scottish system of relief for single mothers also changed throughout the nineteenth century. Unlike the English system, single mothers could receive relief. Initially, the Board of Supervision up until the 1870's did not recommend poor houses for single mothers, often

granting outdoor relief. However, several Board of Supervision rulings in the 1870's stated that the parishes should afford single mothers institutional accommodations only, or put them to the poorhouse test. The boards did this in an effort to discourage women from having children and becoming destitute (Blaikie 211-212). This would appear to be similar to that of England's desire to discourage promiscuity. It seems that Scottish lawmaking initially wanted to be humane and provide single women with relief but eventually decided to impose moral requirements.

A comparison of two case studies involving women who requested relief highlights this change in Scottish policy. The first case was in 1856 and involved a woman who only had one child and should not have been relieved. The parish placed her on the Poor Roll because she "was in great need of clothing and her wages for the winter season small so that she [would] not be able without a temporary supply to maintain herself and child" (Blaikie 212). Although she had a wage, the parish granted her outdoor relief. Another case forty years later in 1897 involved a mother of three. She was a "housekeeper to a crofter whom she states allows her no wages only food and shelter (the former insufficiently)" (212). She, in fact, stated that she knew who the fathers were but they were not paying regular support. The parish offered her only admittance to the poor house. This change in philosophy paralleled the English policy of placing such women in institutions. Therefore, although the Scottish Poor Law system initially was supportive of single mothers, towards the end of the century, it appears to have migrated toward the English philosophy.

In summary, there were many differences in how Scotland and England provided support for the poor. One difference involved the eligibility of individuals to receive relief. England clearly allowed even able-bodied people to receive relief. In Scotland, however, it was legislated

in the 1845 amendment that able-bodied paupers could not receive any relief. In practice, many able-bodied paupers received relief. For instance, the Scottish legislature granted single mothers relief even if they were able bodied.

The way that each country chose to provide funding to the poor was also different. England had always relied on "compulsory assessments" to support the poor. Scotland had historically relied on the voluntary assessments to provide this relief. The Scots felt that forced assessments took away from a parishioners sense of freedom. The Scots also believed that a person receiving aid would be more grateful if it came voluntarily from a fellow Scotsman. Although there were several parishes that did levy an assessment, until the later half of the nineteenth century, the majority had relied on alms giving. In the end of the nineteenth century, the use of assessments became more prevalent likening it to England.

Another distinct difference between the two systems was the treatment of illegitimate children and single mothers. England legislated that women were solely responsible for their children allowing fathers of illegitimate children to escape responsibility. Scotland, on the other hand, criminalized a father who refused to make payments for the support of his children. However, in the end of the century, Scotland attempted to discourage childbearing out of wedlock by requiring parishes to place single mothers in institutions and subject them to the poorhouse test.

This brief study of the Poor Laws during the nineteenth century of both England and Scotland highlights some distinct differences. These distinctions can be seen by the historical numbers of people receiving indoor versus outdoor relief, the way each country preferred to fund relief for the poor, and the treatment of single mothers.

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