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## Book Reviews

Kathleen E. Hull, Editor

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*Cheating Welfare: Public Assistance and the Criminalization of Poverty.*

By Kaaryn Gustafson. New York: New York University Press, 2011. 238 pp. \$28.00 paper.

Reviewed by Felicia Kornbluh, University of Vermont

Readers who browse book review columns for the pleasure of imbibing treatments of scholarly books that appear balanced, that feature sober assessments of a work's significance followed by a few critical zingers, will be disappointed by what follows. As I consider Kaaryn Gustafson's recent book, I find it impossible to assume the usual stance of sobriety; I am drunk on the virtues of *Cheating Welfare*, and think that all serious law and society scholars should read it. Even to one who is steeped in the historical and contemporary record of poor people's treatment by the government of the United States, Gustafson's work is surprising and very instructive. Although it is understated and obeys academic forms, *Cheating Welfare* offers data that are scandalous and enraging. As an intervention into major schools of sociolegal inquiry, such as the writing on "legal consciousness," resistance, legality, and rule-breaking, Gustafson's work is respectful and often devastating. It is equally devastating, if somewhat less polite, in its engagement with major currents in qualitative social science, especially in its critique of researchers who have allowed their work to be used by public welfare departments and policymakers who are more interested in pursuing impoverished rule-breakers than in alleviating poverty. Gustafson's first-person reflections upon her research process are courageous and important.

The main contribution of Gustafson's book lies in its linking of social welfare with criminal justice. She argues that, after the Republican Congress and the Clinton Administration reformed welfare in 1996, the federal and state governments "wove the criminal justice system into the welfare system" (p. 51). She supports the claim with data about the number of prosecutions for "welfare fraud" (approximately 20 percent of the caseload in the county she studied was being investigated for fraud in a year, p. 169); details about the civil and criminal processes in which poor people become

enmeshed when welfare department employees refer their rule-breaking to the criminal-justice system; and descriptions of national initiatives such as Operation Talon, in which public benefits personnel lure people with outstanding warrants into their offices so that police may pick them up, “transforming welfare offices into traps for hungry law-breakers” (54).

The unity between anti-poverty policy and policing that Gustafson finds reminds me of the nineteenth- and early-twentieth-century unity between “Charities and Corrections.” Social historians of a preceding generation taught that charities and corrections were the two signal modes in which state authorities and professionalizing elites dealt with poor and working people; “charities” were primarily for women and “corrections” for men. Gustafson suggests that sociolegal scholars should refresh our sense of this unity, while acknowledging that there is no longer much of a distinction in the gender of who deserves charitable interventions and who needs to be corrected. Those who study welfare law must take account of the literal criminalization of anti-poverty policy, and those who study criminal law must consider the ways in which low-income defendants are affected by the state of welfare, including in the prosecutions they experience for welfare fraud.

The interviews with welfare recipients quoted in *Cheating Welfare* focus on what people understand about the rules, their compliance, and their moral assessments of the system. Gustafson argues that welfare recipients are extremely diverse in terms of their knowledge about the rules (or laws) under which they operate, but that virtually all lack information about at least some of the rules. These gaps in knowledge or understanding deprive people of options, as for example when women who drop out of school in order to comply with work requirements do not know that they can request waivers to complete their educations. They also leave people vulnerable to administrative and criminal penalties: when a welfare client fails to comply with work requirements, she is likely to face financial sanctions, and when she fails to report her income from employment, then she may well be investigated and perhaps prosecuted for welfare fraud. Despite their gaps in knowledge, Gustafson finds, the people she interviewed overwhelmingly approve of the harsh rules that structure the system. In an effort, she argues, to affiliate with a mainstream moral standard, those who rely upon public assistance make recourse to the stereotype of the “welfare queen,” claiming that *other* recipients are lazy and untruthful and need therefore to be tightly controlled.

Gustafson uses these data to examine afresh some of the major frameworks of the law-and-society tradition. She argues that the contemporary welfare system fails all of Lon Fuller’s tests of legal morality (181–82). She argues that the widespread misunderstand-

ing of welfare law by poor people implies that ubiquitous rule-breaking is *not* a form of resistance; rather than, as some scholars have claimed, freeing people from the state's regulatory power, violations of rules generally leave people even more enmeshed with and subject to that power. Gustafson's point can apply to other realms of law as well, and to social welfare scholarship generally, which has been overly enthralled in recent years with its models of resistance. Gustafson complicates Tom Tyler's work on rules, obedience, and compliance, when she underlines the gap between welfare clients' overwhelming support for the rules in theory and their conscious and unconscious violations of them in practice. Her work resembles that of Joel Handler and Yeheskel Hasenfeld in that she studies the welfare system as a regime of law, and pays attention to its on-the-ground details, rather than supposing that statutes or appellate judicial decisions accurately describe the system. At the same time, she expands Handler's and Hasenfeld's inquiry by studying the interpenetration of criminal justice and welfare.

I would not be surprised if Gustafson's Appendix on "Critical Methodology" became the most widely cited portion of this book. In it, she problematizes familiar meditations on social-science methodology whose focus is the problem of alleviating the distance in terms of power (and race/class/sex) between interviewer and interviewee, especially when the latter is a low-income person. She claims, by contrast, that respondents did not think that she was above them in a power hierarchy, and were therefore not hesitant to disclose personal information—or to ask her intrusive personal questions in turn. As an African American woman who uses a wheelchair and was visibly pregnant at the time she conducted her research, Gustafson could not, she writes, appear neutral vis-à-vis the subjects she was studying. This indicates to her the importance of the body in shaping research. And it indicates how important it is to diversify the range of people and bodies in the field conducting research.

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*Religion, Race, Rights: Landmarks in the History of Modern Anglo-American Law.* By Eve Darian-Smith. Oxford and Portland, Oregon: Hart Publishing, 2010. 332 pp. \$38.00 paper.

Reviewed by Jeffrey R. Dudas, University of Connecticut

The English explorer Sir Francis Drake arrived in the San Francisco bay on June 5, 1579 bearing characteristic, eventually parodic