

History or *histories* of socio-economic rights?

Some 'post-workshop reflections' by [Christian Olaf Christiansen](#), Associate professor, School of Culture and Society, Aarhus University

The German historian Reinhart Koselleck was once described as a partisan for *histories in the plural* (as opposed to history in the singular). His point was that history has many different layers, logics, and temporalities and that the modernist idea of one, overarching history with one direction (telos) – be it towards progress or decline – was inadequate for the multi-faceted geographies, rhythms and dynamics of life. After another fruitful two-day workshop in Paris with great papers on the history of socio-economic rights, I started thinking that Koselleck's point applies with equal right to this field as well. Instead of writing *the* history of socio-economic rights, I would propose thinking about the *histories* of socio-economic rights. There are three main reasons for this: the *non-teleological* histories of socio-economic rights; the *distinctiveness* between different socio-economic rights; and the *complexity* (multiple variables) at work in the histories and dynamics of socio-economic rights. In this text I argue for a history of socio-economic rights in the plural – of *histories* instead of a history – and I propose a list of eight important variables that may help explain the dynamics of the histories of socio-economic rights.¹

A history with many arrows pointing in many directions

First, the histories of social and economic rights show that there is not one history with one direction and teleology. This is perhaps not particularly surprising, but it still merits more attention. Scholars have refuted the idea of a linear history from civic to political to social, economic, and cultural rights: whereas this idea of first, second, and third generation rights still holds true in some cases, it is subject to much empirical variation. For example, social and economic rights were already debated in and during the French revolution and its constitutional discussions. Social and economic rights, then, did not only appear in response to industrialization, and Thomas H. Marshall's classical contribution about 'third

¹ For this short text I am deeply indebted to the many great contributions and comments at the recent workshop on socioeconomic rights in Paris (May 19th-20th 2016). The views expressed here are only my own – they do not claim to represent those of the other workshop participants, and I remain responsible for any faults and shortcomings in the text. Neither does the text claim to represent the 'state-of-the-art' of the field of the history of socio-economic rights. I welcome critiques, comments and suggestions for examples from the histories of socio-economic rights which may help develop my argument (email: idecoc@cas.au.dk).

generation rights', cannot be extrapolated to the history of socio-economic rights as a whole. Furthermore, social and economic rights may rise in one period of time, and then suffer a backlash at a later stage (structural adjustment programs during the Third World Debt Crisis of the 1980s and their effects upon socio-economic rights in some countries is one example). Some scholars have even proposed speaking about 'the death of socio-economic rights'. Finally, some historical agents have claimed social and economic rights *first*, and civil and political rights only later, if at all. The history of socio-economic rights, then, is one with arrows pointing in many directions, with many ups and downs; with break-throughs *and* set-backs many times; and with a large variety of temporalities and geographies. Sorting out main trends is surely an important task for the historians of rights. But it is important to be aware of the non-linear, non-teleological history of rights for scientific as well as for political reasons, as one of the functions it has is to serve as a reminder that hard-won rights can be lost again.

Distinguishing between different kinds of rights

A second reason why it would be important to consider writing the histories instead of the history of socio-economic rights, is that there are important differences between different kinds of rights. First, there is the crucial distinction between social and economic *human* rights and social and economic *citizenship* rights. One does not necessarily lead to another. Famously, in Hannah Arendt's 1951 reflections on WW1-reconstruction attempts, she showed how minorities in Europe without citizenship and citizenship rights were left extremely vulnerable the moment they were reduced to being mere humans with human rights. It goes without saying, then, that strong, enforceable social and economic citizenship rights in one country (backed by 'courts and cops') have often existed alongside a very weak international social and economic human rights regime, which suggests that the distinction between social and economic *human* rights and social and economic *citizenship* rights is a decisive one. Second, there are many differences between different kinds of social and economic rights: where some of their histories probably follow the same route, others don't. After all, social and economic rights can refer to many different rights, each of which *who's individual* histories could be written: the rights to decent wages and working conditions, to join labor unions, to collective bargaining, the rights to food, clothing, housing, and medical care, to an adequate standard of living, etc. Whereas some of these rights are often bundled together, as in some post-WW2 United Nations human rights discussions, they are not always.

Furthermore, it is clear that the meanings of particular socio-economic rights may change through time. This points to the *historicity* of particular rights-concepts: paying attention to the actual *historical* meaning of particular rights, rather than thinking that they can be defined from a present-day perspective. This not only suggests that a rights-concept change meaning over time, but it suggests that the actual definition and the term's range of applicability is exactly what historical actors often struggle about. For example, I would guess that article 24 of the 1948 UNDHR which says that "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay", has been interpreted very differently by different parties at different times. Building upon hermeneutical insights from speech act theory, then, this attention to the shifting meanings of particular rights would also involve reflections about how particular historical agents make use of rights-concepts in their historical argumentation. All in all, this again points to the importance of considering which *particular* social and economic rights whose history is narrated, and an attention to how they are understood by the historical actors themselves.

The complexity (multi-causality) of socio-economic rights: 8 key variables

A third reason why I would propose an attentiveness towards 'histories in the plural' when it comes to social and economic rights is that the history and the dynamics of these rights are conditioned upon many factors. Accounting for the histories of social and economic rights, for their emergences, trajectories, their fall and their rise, would require an attention to many variables, some of which themselves will be interrelated. Again, for any historian of rights this complexity of rights history is hardly surprising. But, still, teasing out some of the most important variables seems important as a tool for thinking about historical explanations for the histories of social and economic rights, for their 'successes' as well as for their 'failures'. Above all, *historical context* is crucial for explaining the dynamics of the rights history, but more specific factors can be pointed out. So, here is a proposed list of some important variables.

1: *Economic and political context*. It goes without saying that historical context matters very much when it comes to explaining the histories and dynamics of social and economic rights. Industrialization, for example, seems important for understanding the history of some socio-economic rights such as the right to collective bargaining; the Cold War, de-colonization and the 'crises of empire' are important for understanding struggles about social and economic rights in the post-WWII era, etc.

2: *Language*. Rights battles are often battles with ‘languages’: it requires a normative or moral vocabulary to claim rights, morally and/or legally. Language here refers to cultural normative resources such as political and religious ideologies and moral vocabularies. Scholars have shown how other normative vocabularies than a human rights or a citizenship rights language – such as e.g. humanitarianism or Christianity, or languages of duties, obligations, and mutuality, which are different vocabularies or types of justification for why someone should receive help or relief – can sometimes lead to a rights language at a later stage (although they can also be in opposition to a rights language). But, mostly, claiming rights seem to require that there is a vocabulary already available for doing so. At the same time, the existence of strong anti-social and anti-economic rights languages can help account for why certain rights are weakened. For example, the Anglo-Saxon and especially American usage of the term ‘entitlements’ in a pejorative sense, combined with giving lexical priority to private property rights over other economic rights, may contribute to explaining why social and economic rights in general have had a lesser breakthrough in the US as compared to e.g. Nordic welfare states.

3: *Agency*. As with other rights, social and economic rights are *claimed* by particular people, groups, organizations, governments, etc. at particular times. For example, Martin Luther King demanded in his famous “I have a Dream” speech that African-Americans should be given far better civic rights. (Another, less obvious special case that we learned through the workshop, is that people can be fighting for rights without claiming them or using a rights language, but through other actions). Agency, then, is important for understanding the dynamics of rights history. But whereas agency is an important variable for understanding why particular rights are claimed, emerge and *strengthened* at particular times, it is just as important for understanding *when they do not*: when rights are weakened, instead of strengthened, scrapped or payed lip service to instead of implemented. Agency in social and economic rights history, then, is just as much about *resistance* and *opposition* towards rights than it is about claiming and advocating for these rights. What sociologists might term an ‘agentic view’ would look into the *interests* and *power* (economic, political, or other) of the historical agents involved in rights struggles, whether they were acting for *or against* rights. This suggests that if we are to understand why social and economic human rights have been much less influential as compared to political and civic rights during the long ‘rights-revolution’ from the 1960s or 1970s until today, *one* way of thinking about this question is to think about agents, power and interests *against* a ‘fuller’ rights regime. Ultimately, an ‘agentic view’ upon rights history would focus upon *interest* and *power*, and it could also consider *class*.

4: *Economic resources*. Rights cost something. They require resources. This is probably true for all kinds of rights, not just social and economic rights, but also political and civil rights. One fruitful perspective for understanding the histories of social and economic rights is to look at who are going to pay for them and how. This can involve looking at the histories of insurance schemes (private or public), redistribution, taxation, international redistribution, etc. Adequate funding of rights is crucial in itself for their realization, and can affect what kind of rights-regime will emerge. By contrast, lack of funding or e.g. growing indebtedness can be essential to understanding the non-fulfillment of social and economic rights. The histories of social and economic rights will thus be subject to who, how, why, or if, they will be paid for. Full realization of social and economic rights will often require redistribution, taxation, and often the infringement upon property rights, which links up with the factor of agency (involving interests and power), and questions about who wins and/or loses from particular rights.

5: *Political/social unity/community*. Another variable which is central to the histories of socio-economic is that of political unity. When socio-economic rights have had breakthroughs, it has often (although not exclusively) been in the context of the nation state and of citizenship rights. By contrast, socio-economic human rights on an extra-national level have proven much harder to realize. This again shows how the dynamics of the histories of socio-economic rights – referring to their ‘successes’ *as well* as to their ‘failures’ – would point towards *disunity* or *weak communities* as factors in accounting for ‘weak’ socio-economic rights.

6: *Awareness/fact-finding/knowledge*. Another thing pointed out at the workshop was the importance of fact-finding in present as well as historical rights-claiming practices. One study showed how French catholic women around the beginning of the twentieth century were committed to digging out facts, which then would serve as a base for addressing the need for help, relief, or rights. Another example (from my own research) would be how the Swedish economist Gunnar Myrdal together with his team of researchers piled up a massive amount of information, statistics, and historical facts about African-Americans in the US: these results were published in the landmark report of 1944, *American Dilemma*, which was then directly referred to in the famous 1954 Supreme Court decision against racial segregation in the US educational system (*Brown vs. Board of Education of Topeka*). If fact-finding and knowledge-dissemination has been an important weapon in claiming rights, however, it needs to be stressed that this factor itself is also dependent upon at least two other factors: the existence of critical communication channels (such as journalism, not-censored media) as well as the educational level of the recipients of the information. What remains is that fact-finding/knowledge/raising awareness – or

the absence of these – can be an important factor in accounting for the histories of socio-economic rights, their ‘successes’ and their ‘failures’.

7: *Availability of ‘alternative welfare regimes’.* Another key to understanding the histories of socio-economic rights is the availability of what might be termed ‘alternative welfare regimes’. In contrast to moral or political languages which speak against the neediness of people or of citizens, alternative welfare regimes acknowledge these needs, but they speak for other solutions to welfare than rights. Examples would include, but is not limited to, philanthropy, economic liberalism and pure gift-giving: all can work as promises for some kind of social protection. Everything else being equal, the availability of ‘strong’ alternative welfare regimes may explain the ‘failures’ or ‘weakening’ of socio-economic rights.

8: *Gender.* Finally, it goes without saying that gender would be an important variable in accounting for the dynamics of socio-economic rights: as shown in the workshop, some rights-battles are battles by – and for – women, and some rights such as maternity leave are (obviously) gendered rights, etc.

There are probably many other factors which could be mentioned. All eight factors mentioned here, however, (economic and political context, language, agency (including interests, power and class), economic resources, political unity, awareness, alternative welfare regimes and gender) seem to have played crucial roles in the histories of socio-economic rights. In some contexts some factors will matter more than others; often the different factors will not be independent of each other but interrelate. Together, the eight factors mentioned here offer a point of departure for thinking about what accounts for particular histories of socio-economic rights. They may also offer a point of departure for those who are engaged in rights activism, as they can be used to think about what explains the ‘successes’ and the ‘failures’ of rights activism. The many variables bring testimony to the complexity of the histories of socio-economic rights – not one ‘law’ or causal relationship seem to be dominant – which is one of the three reasons why I have here proposed to speak of histories of socio-economic rights in the plural.