

## Socioeconomic Rights in History: Some Approaches

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In this paper, I would like to propose some approaches to the history of socioeconomic rights, the topic of our Leverhulme funded network for the next three years. Like all histories, the story of socioeconomic rights is beset with challenges, not least the challenge of studying a concept that has itself emerged only recently, making attempts to project it back in time potentially anachronistic. That said, if approached critically and with sensitivity to conceptual genealogies, I think the history of socioeconomic rights is a worthwhile endeavor. These days, human rights have become a major preoccupation in politics, diplomacy, law, business and academia. Curiously, though, socioeconomic rights have tended to get short shrift. Often they are overlooked entirely. One legal expert, Paul O'Connell, refers to socioeconomic rights as 'the Cinderella of the human rights corpus'.<sup>1</sup> Perhaps the metaphor does not go far enough. Everyone knows Cinderella, but many do not know what socioeconomic rights are, or even that they exist.

So what are socioeconomic rights? We will surely scrutinize this category, but for simplicity's sake, allow me to define them as a subset of rights concerned with individual wellbeing. They are often distinguished from civil and political rights, such as the right to vote, to a fair trial and to freedom of expression. The distinction between socioeconomic rights (sometimes 'cultural' rights are lumped in with them) and civil/political rights is rejected by many human rights advocates, who find that it does more harm than good, allowing a hierarchy to insinuate itself within the full range of human rights. In our network, we should

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<sup>1</sup> Paul O'Connell, *Vindicating Socioeconomic Rights: International Standards and Comparative Experiences* (London: Routledge, 2012), 1.

be attentive to how these concepts and categories emerged and became contested. We should also be attentive to the differing implications of socioeconomic rights in national and international contexts. Have struggles for socioeconomic rights been strengthened or weakened when framed as universal human rights as opposed to the rights of citizens? Has the rise of 'human rights' consciousness since the 1970s advanced or hindered the cause of socioeconomic rights, globally and within nations?<sup>2</sup> (One thinks of AIDS movements' invocation of human rights in the 1980s – did it have any impact on the health services HIV carriers received?)

Even as we historicize the category of 'socioeconomic rights', we should not lose sight of the fact that many of the rights we characterize today as 'socioeconomic' can be traced back to the late eighteenth century. Although contemporaries back then did use this term, they did deploy the language of 'rights' and 'duties' to address the social question. The scope of socioeconomic rights has, of course, changed over time. In the late eighteenth and nineteenth centuries, the rights to work and to subsistence were most prominent. In the twentieth-century, socioeconomic rights came to include access to health, housing and education.

The fact that notions of socioeconomic rights stretch back so far gives us reason to challenge their characterization as 'second generation rights', that is, as twentieth-century socialist additions to core liberal rights (civil and political) born in the Enlightenment. Support for such rights during the French Revolutionary decade came from a wide political spectrum, from free-market liberals and religious charity workers to Enlightenment philosophers and radical *sans-culottes*. Socioeconomic rights were included in the French Declaration of Rights of 1793, during the Revolution's radical phase – hence why scholars often associate these rights, wrongly, with *only* social radicalism. Article 21 of that declaration reads 'Public relief is a sacred debt. Society owes maintenance to unfortunate citizens, either procuring work for them or in providing the means of existence for those who are unable to work.' Due to foreign and civil war, the constitution of 1793 was suspended. Two years later, legislators scrapped the

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<sup>2</sup> Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge Mass.: Belknap Press of Harvard University Press, 2010).

1793 constitution and drafted yet another one – the Revolution’s third. This time, they included ‘duties’ but excluded socioeconomic rights.

During the nineteenth century, struggles for social justice in France were not always carried out in the name of ‘rights’. There were alternative idioms for addressing the social question, such as philanthropy, syndicalism, humanitarianism and utilitarianism. Still, the language of socioeconomic rights persisted. It exploded on the political scene in the Revolution of 1848 in France. The ‘right to work’, however, failed to be inscribed in the republican Constitution of that year, despite efforts on the street and in the National Assembly to secure them. Although the leaders of the Paris Commune of 1871 did not get around to drafting a formal declaration of rights before their movement was crushed, their early decrees bespoke a commitment to social democracy – to debt relief, pensions and welfare. Socialist ideals permeated their manifestos and declarations. But did they frame their agenda in terms of rights? I hope our network will explore the complicated relationship between socioeconomic rights and the political currents of the nineteenth century, such as socialism, liberalism and republicanism. Did Chartists and Bismarck invoke the language of rights in thinking about socioeconomic issues? Was it the case that the language of ‘rights’ was increasingly invoked over the course of the century?

If we leap to the twentieth century and across the Atlantic Ocean, we find socioeconomic rights in several Latin American constitutions, notably, the Mexican Constitution of 1917, which authorized land redistributions and secured strong labor union rights. Although Mexican revolutionaries were anticlerical socialists, according to Paolo Carozza, there are remarkable textual similarities between article 123 of the Mexican constitution and texts by early twentieth-century Catholic groups militating for social justice in Mexico.<sup>3</sup> Those groups were suppressed after 1910, but the language of their aspirations found expression in the new socialist order. It was as if socialist leaders believed they were strengthening their hand by appropriating the progressive language of certain Catholic groups. In any case, by the 1930s and 1940s, several Latin

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<sup>3</sup> Paolo G. Carozza, ‘From Conquest to Constitutions: Retrieving a Latin American Tradition of the Idea of Human Rights’, *Human Rights Quarterly* 25 (2003), 308-310.

American states had written socioeconomic rights into their constitutions. If historian Mary Ann Glendon is correct, these rights cannot be attributed solely to radical, atheistic socialism. They were supported by social democratic, labor, Christian democratic, and Christian social parties as well. Nor should the Latin American influence on the development of human rights in the twentieth century be underestimated. John Humphrey, one of the drafters of the United Nations' Universal Declaration of Human Rights of 1948, admitted to borrowing heavily from Latin American constitutional texts.<sup>4</sup> A sober (if uncomfortable) account of socioeconomic rights in the twentieth century must also consider how they were invoked by authoritarian regimes as well, from Vichy France and moving eastward to the Soviet Union.<sup>5</sup>

This brief overview of the history of socioeconomic rights allows us to formulate some questions. If notions of these rights stretch back to the eighteenth century and if they have received support from widely different political groups, then what needs to be explained is both the persistence of these rights and their chronic precariousness. Why have socioeconomic rights been around for so long yet have tended to be less visible and more contentious than civil and political rights?

Some might argue that the chronic weakness of socioeconomic rights is proof of their utopian nature.<sup>6</sup> This view has been advanced by liberals and libertarians ever since the French Revolution. In my own research on the French

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<sup>4</sup> In his memoirs, Humphrey recalls borrowing freely from the model declaration presented by the American Law Institute, which was largely based on the Panamanian proposal presented at the San Francisco Conference of 1945, which included the economic and social rights that were found by that time in many Latin American constitutions. John Humphrey, *Human Rights and the United Nations: A Great Adventure* (New York: Transnational Publishers, 1984), 32.

<sup>5</sup> Philip Nord, *France's New Deal: From the Thirties to the Postwar Era* (Princeton: Princeton University Press, 2010); Pedro Ramos-Pinto, a network participant, is currently working on this topic in several European contexts.

<sup>6</sup> For a succinct overview of arguments for and against socioeconomic rights, see Ilias Trispiotis, 'Socioeconomic Rights: Legally Enforceable or Just Aspirational?', *Opticon* 1826 no. 8 (2010). See also Roland Burke, 'Some Rights are More Equal than Others: The Third World and the Transformation of Economic and Social Rights', *Humanity*, 3: 3 (winter 2012). For an extended debate on the matter, see the series of articles responding to Daniel J. Whelan and Jack Donnelley, 'The West, Economic and Social Rights, and the Global Human Rights Regime: Setting the Record Straight', *Human Rights Quarterly* 29 (2007), 908-949.

Revolution, I have found evidence of a writer who was guillotined during the Terror for espousing such criticism.<sup>7</sup> This view was bolstered during the Cold War, when philosophers and human rights advocates – from Isaiah Berlin and Hannah Arendt to Maurice Cranston and Human Rights Watch director Aryeh Neier – argued against the viability and even desirability of socioeconomic rights.<sup>8</sup> Some argued that these rights were vague and impossible to enforce. Others characterized them as ‘positive rights’, which placed unrealistic obligations on the state to provide goods and services, unlike ‘negative rights’, such as freedom of speech, which set feasibly enforceable limits on state action. The best that could be done with regard to socioeconomic rights, many maintained, was to treat them as aspirational, not justiciable. Indeed, that is how the UN has treated them until very recently.

Liberal arguments against socioeconomic rights have been largely debunked in recent years. Philosophers and legal experts have argued that all rights – socioeconomic as well as civil and political – have positive and negative dimensions and that all these rights can be enforced without necessarily lapsing into authoritarianism.<sup>9</sup> In any case, our network need not rehearse old arguments against socioeconomic rights to explain why they have proved to be

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<sup>7</sup> François Alexandre Surmain, vice president of the District of Saint-Jean de Lorne, was convicted by the Revolutionary Tribunal and executed in June 1794 for his manuscript, which refuted, article by article, the Constitution of 1793, which included socioeconomic rights. Archives nationales: W369 doss. 823. ‘Penser que l'inégalité des fortunes soit une désordre et proposer de la détruire ne pouvait rentrer dans le sophisme,’ he wrote.

<sup>8</sup> Isaiah Berlin, *Liberty: Incorporating Four Essays on Liberty*, Henry Hardy (ed.) (Oxford: Oxford University Press, 2002 [‘Two Concepts of Liberty’ orig. 1958]; Hannah Arendt, *On Revolution* (New York: Viking, 1963), esp. the chapter on ‘The Social Question’; Maurice Cranston, *What are Human Rights?* (London: The Bodley Head, 1973); Aryeh Neier, *Taking Liberties: Four Decades in the Struggle for Human Rights* (New York: Public Affairs, 2003).

<sup>9</sup> In addition to the above, see Paul O’Connell, *Vindicating Socioeconomic Rights: International Standards and Comparative Experiences* (Oxford: Routledge, 2013); Shedrack C. Agbakwa, ‘Reclaiming Humanity: Economic, Social, and Cultural Rights as the Cornerstone of African Human Rights’, *Yale Human Rights & Development Law Journal* 5 (2002), 177-216; Daphne Barak-Erez and Aeyal M. Gross (eds.), *Exploring Social Rights: Between Theory and Practice* (Oxford: Hart Publishing, 2011); J. P. Sterba, ‘From Liberty to Welfare’, *Ethics* 105: 1 (1994), 64-98.

the weaker set of rights in history, in comparison with civil and political rights. Rather, we should aim to identify the forces – the arguments, interests and institutions – that have established this subordinate status in the first place, either by opposing the socioeconomic rights on philosophical grounds or by espousing alternative ways of addressing the social question. We should keep in mind that, like the forces supporting socioeconomic rights, those opposing them have spanned the political spectrum, from conservatives and socialists to liberals and neo-liberals.

So what kind of longer *durée* story can we tell about socioeconomic rights? Is it one of gradual progress or perpetual failure? Neither narrative withstands scrutiny. One could, if one wished, tell the story as one of gradual progress. It would go something like this: First conceived in the French Revolution, socioeconomic rights finally become embedded in twentieth-century constitutions and international legal instruments, propelled by the social-democratic consensus of the post-World War II era. Optimists might end this story with the recent optional protocol of the United Nations, which allows complaints for violations of socioeconomic rights to be made to the UN's Human Rights Committee, as has been the case for civil and political rights for decades. The protocol marks a major political breakthrough for socioeconomic rights at the UN. Whether it marks a breakthrough for global justice is another matter. In any case, the timing of this optional protocol is suggestive. It occurred just months after the collapse of Lehman Brothers and the global financial crisis. Efforts in the UN to implement such a complaints procedure for violations of socioeconomic rights stretched back decades. One wonders if the momentary political bankruptcy of financial capitalism made it possible to advance the cause of socioeconomic rights. It may be worth exploring the historical relationship between economic liberalism and the socioeconomic rights. Have the latter gained in legitimacy when the former loses credibility?

Pessimists, of course, would reject this Whiggish narrative. They would note that, even if the UN initiated a voluntary complaints protocol to enforce socioeconomic rights, the protocol suffers from, first, being voluntary, and second, the complete absence of media attention to it. In addition, they might ask: why, if there has been historical progress for socioeconomic rights, were

these rights not invoked during the negotiations between Greece and the Troika over Greece's debt between 2012 and 2015? Why were the austerity measures, imposed on Greece by the Troika, not denounced as violations of socioeconomic rights, especially since such rights are recognized by the European Union? Even leading members of the far-left Syriza government avoided framing their anti-austerity arguments in terms of socioeconomic rights, referring to the situation in Greece as a 'humanitarian crisis'. Germany, insistent on austerity, tried to sweeten this bitter pill with vague talk of 'humanitarian relief' in the summer of 2015. Yet, numerous experts, including Nobel-prize winning economists, have shown that austerity imposes disproportionate suffering on the bottom levels of society, depriving people of work, healthcare and subsistence. Why, then, was austerity not framed as a violation of socioeconomic rights? Pessimists might take this for proof of the political impotence of the 'rights' idiom as an effective vehicle for securing social justice. Thorough-going pessimists might take this as proof of the impotence of human rights as a whole.

But a pessimistic interpretation of the history of socioeconomic rights would not be able to account for the expansion of these rights in the post-World War II era, when, for example, access to healthcare became a right in many countries. Nor can it explain the persistence of socioeconomic rights as an idiom of social justice since the eighteenth century. If socioeconomic rights are so flimsy, why have they been knocking around in politics for more than two centuries, albeit at the margins? Why haven't they gone the way of utopian socialisms of the nineteenth century, such as Fourierism?

Ultimately, neither a Whiggish nor pessimistic narrative will do. Neither can explain *both* the persistence of these rights (or conceptions of these rights) and their chronically precarious place within the larger corpus of rights since the late eighteenth century. So this leaves us with the question we began with: how should we approach their history?

I propose placing socioeconomic rights within the broader framework of duties and obligation. The full title of our network is 'Rights, Duties and the Politics of Obligation: Socioeconomic Rights in History'. It is intended to invite two lines of inquiry, the first, on conceptions of 'duties', the correlatives of rights and, the second, on cultural patterns of obligation, which have constituted the

conditions of possibility to imagine, militate for or oppose socioeconomic rights. While an understanding of 'duties' calls for intellectual history (or a history of discourses), an understanding of the politics of obligation involves cultural analysis. Historians might learn from human rights lawyers, who are familiar with duties and obligations since they have to deal with these issues on a regular basis. Who is the duty bearer in a case of a rights violation? What kinds of contractual obligations are or are not valid in a 'rights' based regime? What obligations are states under in upholding and enforcing rights? While lawyers see these as pressing matters, scholars of rights and much of the public tend to treat duties and obligations as an afterthought, if at all.

Throughout history, philosophers and advocates have often stressed the importance of duties in theorizing about rights. In the late eighteenth century, rights and duties were seen as inseparable. Take, for example, the pronouncements made by the Philanthropic Society of Bern Switzerland in 1778, which claimed 'There are no rights without duties and no duties that do not give rise to rights – may misfortune fall upon anyone who doubts this. Such a person would be a barbarous despite or vile slave.'<sup>10</sup> The concept of 'reciprocity', which was born in the Enlightenment, was often used in the context of discussions about rights and duties; theorists perceived a relationship of reciprocity between rights and duties. Thomas Paine, for example, refuted criticism of French revolutionaries for failing to promulgate a declaration of duties alongside their declaration of rights. He insisted that duties were built into rights and did not require any special elaboration: 'A declaration of rights is, by reciprocity, a declaration of duties.'<sup>11</sup> Duties have appeared in many of the major rights declarations of the modern period. They were alluded to in the preamble of the Declaration of the Rights of 1789; they were enumerated in the Declaration of Rights and Duties in the French Constitution of 1795; and an article was devoted to them in the UN Universal Declaration of 1948: 'Everyone has duties to the community in which alone the free and full development of his personality is possible' (article 29).

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<sup>10</sup> Société des philanthropes de Berne, *Mémoires de la Société des philanthropes* (1778), 139.

<sup>11</sup> Thomas Paine, *Rights of Man* (New York: Penguin, 1985), 114.



Whereas the historical study of 'duties' calls for analyzing ideas and discourses, a study of obligation should analyze culture. As anthropologists know, all societies are structured on patterns of obligation. These patterns are sometimes articulated explicitly, but they can also be ensconced in social practices, with rhetoric serving to disguise or conceal the nature (and potential contentiousness) of obligations. Marcel Mauss, author of *The Gift: Forms and Functions of Exchange in Archaic Societies* in the 1920s, showed how, in many cultures, gifts are said to be given freely but, in fact, instantiate indebtedness and obligations on the part of recipients. It seems to me that the politics surrounding social justice since the eighteenth century – and socioeconomic rights are one of several ways of dealing with the social question – can be interpreted fruitfully from this perspective. What patterns of exchange and obligation (reciprocity) existed prior to the emergence of socioeconomic rights? Was their emergence a response to a shift or crisis in exchange and obligation patterns? How did the idiom of rights and duties fit in with other idioms and practices of obligation? How was the language of 'rights and duties' mobilized in struggles to determine who owes what to whom in society and who gets to decide? These questions open up onto politics but also culture more broadly.

By focusing on the politics of obligation, we can better discern how socioeconomic rights have competed with other ways of structuring obligation in historical efforts to address the social question. Philanthropy, humanitarianism, economic development, economic planning and economic liberalism all involve specific ways of organizing obligations and representing (or concealing) them. If politics is about making claims, it is also about structuring obligations, since there is no claim that does not place someone, some institution or the collectivity under an obligation. In matters of redistribution (which socioeconomic rights require), the politics of obligation are especially contentious, which is why the history of socioeconomic rights must consider the history of debates over taxation and other ways of financing socioeconomic rights. We will be addressing this very issue in our first meeting next spring at Sciences Po: 'Who Pays? Socioeconomic Rights in History'.

Allow me to present some examples that show how attending to the problem of obligation can shed light on the history of socioeconomic rights. Let's

consider a model declaration proposed during debates over the Declaration of the Rights of Man and of the Citizen in 1789. As mentioned earlier, socioeconomic rights were proposed that year but were omitted from the final draft. This model declaration was drafted by a well-known advocate of economic liberalism at the time, Pierre-Samuel Dupont de Nemours. Articles two and three of his model declaration reads:

2. All men have the right to aid from other men.

3. All men have the right to demand reciprocity from those to whom they extend aid, and are the judges of the terms of this reciprocity.<sup>12</sup>

It is not clear from this formulation that Dupont had state-funded welfare in mind. It sounds more like a proposal for charity, couched in a 'rights' idiom. Noticeably absent is any mention of duties incumbent on the providers of aid. To the contrary, obligation is ascribed to recipients of aid, who are expected to provide something to the benefactors – and the benefactors get to decide what that 'something' is. One wonders what 'reciprocity' really meant if one party to the exchange possessed the exclusive right to set the terms. Dupont's formulation suggests that, in the midst of seeking to establish equality in society, some French revolutionaries were sneaking political inequality through the back door, allowing the wealthier classes, who were to pay for social assistance, to impose obligations on recipients, who were to have no say in what those obligations should be.

Now let's consider the next article in Dupont's model declaration of rights.

Art. 4: Each person in the state of infancy, physical weakness, or infirmity, has the right to free assistance from other men, because there is not a single one [of us] who are not beholden to pay, in this regard, a sacred debt that lasts as long as one's life, since there is not a single one who

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<sup>12</sup> [Dupont de Nemours], *Déclaration des droits, Extraite du Cahier du Tiers-État du Bailliage de Nemours, Partie seconde; Chapitre premier* (Paris: Baudouin, [1789]), 2.

does not owe one's life to a multitude of free aid received, even if only in infancy.

Although the providers of aid in this article are under an obligation, that obligation is not to fellow citizens but rather stems from a quasi-religious notion of primordial debt. The aid is conceived of as restitution for free gifts already received, rather than a sacrifice of one's property called for by the moral obligation to one's fellow man. Also, it is still difficult to see the state acting as the vehicle of redistribution in this article. The absence of the state is not surprising, given that before and during the French Revolution, charity was often funded through voluntary subscriptions. Ultimately, Dupont's model declaration shows us a historical instance in which charity and the language of rights could overlap. Another liberal politician writing half a century later and in the midst of another revolution, Alexis de Tocqueville, would insist that charity and rights were fundamentally different.

But before turning to 1848, I would like to show how the spirit of socioeconomic rights proposals in 1789 worked their way into arguments for economic liberalism. On the final day of debate over the Declaration of Rights in August 1789, deputies in the National Assembly discussed a decree that called for a totally free market for grain. They saw free-markets as the best solution to the bread crisis, which had become explosive. The decree began by using the same language found in some of the model rights declarations that included socioeconomic rights (though not Dupont's):

'The National Assembly considers that the State is not comprised of mutually estranged or inimical groups, that the French regard themselves as true brothers, always disposed to offering each other reciprocal aid, and that this obligation is all the more sacred insofar as it concerns subsistence'.

It sounds like we've entered the radical world of Jacobin 'fraternity'. But Jacobins did not yet exist, and in any case, once they did, most of them embraced economic liberalism. After reading this line, one might anticipate a call for

charity or welfare. To the contrary: the next paragraph called for free markets and provided a mini-lesson on 'supply-and-demand' theory. The decree ended on a decidedly less 'fraternal' note: it threatened to charge anyone interfering in free markets, be they crowds seizing grain or authorities requisitioning it or putting price ceilings on it, with the high crime of *lèse-nation*, a kind of treason. The result of this decree? Consternation on the part of local authorities and a series of popular revolts, which culminated in the Women's Bread March to Versailles in early October. This event transformed the course of the French Revolution, bringing the king and queen to Paris where they were essentially political prisoners until they were executed four years later.

What can these texts of 1789 tell us about socioeconomic rights? By beginning with articulations of socioeconomic rights and working outwards into the politics of obligation, we can see how rights, charity and free-market liberalism related to each other. Proposals for charity (Dupont) and for free-markets (the National Assembly decree) drew on the language found in rights proposals but avoided placing the wealthier members of society under any legal obligation to provide social assistance. Charity was to be voluntary, and free-markets were thought to ensure that the social question was dealt with without politics and without the need for administrative interventions into markets.

If we want, then, to understand why socioeconomic rights have been so weak since the French Revolution, we should pay attention to how discourses of philanthropy and free-market liberalism have been mobilized to outflank them.

Compare Dupont's vague formulation of the right to social assistance with the one declared in 1793, when the state began to re-regulate grain. Article 23 of the 1793 Constitution read:

'Public relief is a sacred debt. Society owes maintenance to unfortunate citizens, either procuring work for them or in providing the means of existence for those who are unable to labor.'

Obligation was placed on society as whole – and hence, the state – and not on the recipients of charity, as it had been in Dupont's version. The terms of the 1793 formulation may be more familiar to us than those of Dupont's, but this makes

the strangeness of Dupont's formulation – charity as rights – so fascinating and worth investigating more deeply, comparing it with other historical contexts.

It appears that after the 1793 formulation, the proponents of charity began to see socioeconomic rights as dangerous. During the Revolution of 1848 in France, de Tocqueville presented charity and rights as stark alternatives. He favored charity and fulminated against socioeconomic rights. The famous author of *Democracy in America* and now a deputy in the National Assembly, which was drafting a new constitution, countered his colleagues who were arguing for the 'right to work'. He saw this right as the epitome of socialism (even though many socialists at the time eschewed rights and thought of work in terms of duties: individuals had a duty to work and society had a duty to provide it). Flipping Proudhon's famous quip 'property is theft' on its head, de Tocqueville declared socialism to be theft. 'All socialists attack individual property, either directly or indirectly.'<sup>13</sup> Christian charity, he believed, would advance the cause of the poor masses without threatening the political system. 'The February Revolution [of 1848] must be Christian and democratic', not 'socialist and democratic'. He rejected the very notion that the state had any obligation to workers:

'There is nothing [in France's revolutionary tradition]', he continued, 'that gives workers a right in respect of the state. There is nothing there that obliges the state to replace individual foresight, thrift and individual honesty. There is nothing there that authorizes the state to intervene in industry, to impose restrictions upon it, to tyrannize the individual in order to better govern him or to save him from else.'<sup>14</sup>

Tocqueville's speech shows how two competing frameworks for dealing with the social question – rights and charity -- came into tension with each other. A crucial difference between Christian charity and socioeconomic rights was, quite obviously, where obligations fell.

Of course, the problem of obligation is central in all frameworks for dealing with the social question: rights, charity, humanitarianism, free-markets,

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<sup>13</sup> Alexis de Tocqueville, *Speech made before the Constituent Assembly during the Discussion of the New Constitution on the Right to Work*, in Aurelian Craiutu and Jeremy Jennings (eds. and trans.), *Tocqueville on America after 1840: Letters and Other Writings* (Cambridge: Cambridge University Press, 2009), 396.

<sup>14</sup> *Ibid.*, 404.

global economic development. Our network should explore the politics of obligation in struggles to determine *who is beholden to whom in society – who is under an obligation to give what?* Is the redistribution involved in addressing the social question to be considered a free gift or is it a generator of obligations – social, contractual, political? The anthropology of gift exchange, reciprocity and indebtedness strikes me as useful for thinking about the politics that have underlain debates over socioeconomic rights and other modes of dealing with the social question, such as charity and humanitarianism.

Indeed, the problem of obligation is central in a recent article on the ethics of humanitarianism, published in 2012 by Hugo Slim. Slim argues that humanitarianism can be pulled in one of two directions, towards philanthropy or towards rights and duties. He believes it should be pulled towards the latter. Why? Because philanthropy is patronizing and does not promote political responsibility on the part of recipients. A rights and duties approach to humanitarianism treats recipients as moral actors rather than merely empty bellies. He believes that a rights-oriented humanitarianism can help bring about the democratic transformation of authoritarian or disintegrating societies. Regardless of whether we share Slim's optimism, his argument reminds us of the central place of obligation in theories about humanitarianism and rights.

The importance of obligation is apparent in Roland Burke's recent study of the fate of socioeconomic rights in the post-decolonization era. Burke argues that, as many newly freed Third World nations turned towards authoritarianism in the 1970s, their leaders shifted the focus of socioeconomic rights discourse away from internal politics and towards global wealth disparities instead. This had the effect of deflecting attention away from domestic corruption and towards the problem of global imbalances. Summing up this shift, Burke observes, 'Responsibility for delivering social rights devolved to the developed world, which typically treated such assistance not as fulfillment of an obligation but as discretionary charity to a supplicant government.'<sup>15</sup> In other words, the language of socioeconomic rights – so prominent in the decolonization struggles of the 1950s and 1960s – gave way to global charity in the post-colonial era. The shift had the effect of displacing the thorny problem of obligation. Burke's

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<sup>15</sup> Burke, 'Some Rights are More Equal than Others', 441-442.

insights here could be expanded upon: while wealthy countries did sometimes provide charity to supplicant countries, they also provided loans, saddling the latter with unsustainable debts while placing them under the obligation to open up their resources to global markets. Again, by keeping an eye on the question of obligation, we can see how socioeconomic rights, economic interests and the politics of obligation all came together in shaping post-colonial globalization.

## **Conclusion**

The history of socioeconomic rights can be approached in several ways. Claudia Stein will discuss how this history can be conducted genealogically, focusing on a particular set of socioeconomic rights, healthcare, and tracing it back to a period before rights for health existed – to a period when health was a biopolitical concern. This approach raises interesting questions for us: has health really gone *from* biopolitics *to* individual rights or have biopolitics insinuated themselves into health rights?

In this paper, I have outlined additional ways of approaching the history of socioeconomic rights. We might focus on conceptual categories, examining the politics and philosophies behind the articulation various sets of rights *and duties*. We might explore how the very notion of ‘socioeconomic’ rights – or ‘social’ and ‘economic’ rights, since some have distinguished between them – emerged and became distinguished from civil and political rights. We might also explore how ‘duties’ have been conceived (or sublimated) in socioeconomic-rights discourse. Such an approach should be attuned to the politics behind invocations of all these categories and distinctions, which have been mobilized in efforts to set norms for redistribution, which socioeconomic rights necessitate.

Finally, we can adopt a cultural anthropological approach as well. Focusing on the politics of obligation, we can examine how the idiom of rights and duties has overlapped or competed with other ways of structuring obligation. In addition to broadening our understanding of the history of socioeconomic rights in the West, such an approach furnishes us with comparative critical equipment to analyze challenges to establishing socioeconomic rights in both Western and non-Western societies. All societies have their own specific patterns of obligation – patterns that the advocates of

socioeconomic rights would do well to understand in order to advance their cause.

*(See summary of questions on next page)*



### Summary of approaches:

1. Genealogy: Trace a specific set of socioeconomic rights back to periods before that issue became framed in terms of rights. (E.g.: health, from 18<sup>th</sup> century biopolitics to manage productive populations, to 20<sup>th</sup> century rights).
2. Concepts, Discourses: Examine the conceptual categories used to discuss socioeconomic rights to identify the politics and philosophies underlying them. Close attention to how socioeconomic rights became distinguished from civil and political rights.
3. 'Duty' Discourses (ideas and practices): How have duties, the correlatives of rights, been conceived? What have been the politics behind conceptions of duties? How have they been given legal or institutional expression?
4. Sociology/cultural anthropology: Examine the politics of obligation and how they have figured in struggles over addressing the social question. Situate 'rights and duties' as one solution among others (charity, humanitarianism, utilitarianism, economic liberalism) in struggles over setting justice and redistribution norms.