

An Overview of Positive Economic Rights in American Political Thought

Noah Ryan

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Thesis Advisor: Beth Simmons

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ABSTRACT

Positive economic rights are entitlements an individual has for the state to provide for their basic needs. Though codified in international law, the existence of such rights remains deeply controversial in the United States. This thesis will explore the concept of positive economic rights throughout American history, beginning in the Colonial Period and ending with the recent revival of positive economic rights discourse since Bernie Sanders' 2016 presidential campaign. The thesis will explore political literature related to positive rights, state duties to the poor, and positive liberty—a concept frequently invoked by advocates for positive economic rights. Through political literary analysis, I will argue that while the concept of state duties to the poor spans the full duration of American history, the framing of such duties in terms of individual rights is largely a product of the New Deal Era. The thesis will also explore arguments against positive economic rights, which began to intensify during the late 1960s. Though positive economic rights receded to the fringes of American discourse during the Reagan years, support for these rights appears to be making a comeback.

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Part I: General Introduction, Definition of Terms, and Significance

The term “positive rights” refers to entitlements an individual has to receive a particular treatment from the state. Positive rights are contrasted with negative rights, which place obligations on actors to refrain from certain types of behaviors against the rights-holder. Positive rights, though codified in international human rights law,¹ remain deeply controversial in American political discourse. Advocates for positive rights often invoke another concept, positive liberty, to justify their position. According to Isaiah Berlin, someone enjoys negative liberty when “no man or body of men interferes with [his] activity.”² In other words, negative liberty is the absence of “obstacles, barriers, or constraints” which would limit one’s choice of action.³ A person enjoys negative liberty insofar as they are free to pursue their projects without external interference.

Positive liberty refers to an individual’s ability to act in such a way as to meaningfully pursue and realize their projects.⁴ Someone enjoys positive liberty if they have the means to do as they wish. Positive liberty is broader than negative liberty, as the former requires the latter. For example, a government which imprisons someone unjustly may be accused of violating that individual’s negative liberty, as confinement constitutes an external constraint which prevents the individual from acting as she wishes. A prison sentence may likewise be considered an obstacle to positive liberty, as the prisoner lacks the means to pursue her projects given her confinement. The prisoner’s lack of decent food, education, and other necessities might constitute separate obstacles to her positive liberty. Because these factors impose no external restrictions on the

¹ United Nations General Assembly, *International Covenant on Economic, Social, and Cultural Rights*, December 16, 1966, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

² Isaiah Berlin, *Four Essays on Liberty* (New York: Oxford University Press, 1970), 122.

³ Ian Carter, “Positive and Negative Liberty,” *Stanford Encyclopedia of Philosophy*, accessed March 25, 2022, <https://plato.stanford.edu/entries/liberty-positive-negative/>.

⁴ Isaiah Berlin, *Four Essays on Liberty*, 131.

prisoner's actions, they would not, however, be considered violations of negative liberty. As this example illustrates, positive liberty has more extensive criteria than negative liberty.

Within recent years, many figures on the American Left have invoked the notion of positive liberty to justify their support for positive economic rights. For example, Vermont Senator Bernie Sanders campaigned on a platform that emphasized economic rights, particularly the right to healthcare, during his 2016 and 2020 presidential campaigns.⁵ In 2019, Sanders claimed that the fulfillment of these rights was the only way to achieve "true freedom."⁶ Other progressive elected officials such as Representatives Alexandria Ocasio-Cortez, Cori Bush, and Ilhan Omar have made similar remarks. However, these sentiments from leading progressives have provoked debate. Republican Senator Ted Cruz, for example, attacked Sanders' position during a debate on CNN in 2017, arguing that healthcare is not a right.⁷

Despite the recent attention given to positive economic rights, it is not a new concept. This thesis will explore the origins of positive economic rights discourse in America. Levying historical texts, I will argue that positive economic rights are largely a product of the New Deal Era. Indeed, although the debate concerning state duties to assist the poor extends the full length of American history, the framing of these duties in terms of individual rights can be attributed to New Deal liberalism. I will also seek to show that positive economic rights began to fall out of fashion during the 1960s as conservative backlash against the welfare state intensified. The thesis will conclude with a brief discussion on the current revival of positive economic rights in American political discourse.

⁵ Jon Greenberg, "Bernie Sanders: US 'Only Major Country' That Doesn't Guarantee Right to Health Care," Politifact, June 29, 2015, <https://www.politifact.com/factchecks/2015/jun/29/bernie-sanders/bernie-sanders-us-only-major-country-doesnt-guaran/>.

⁶ Zeeshan Aleem, "Bernie Sanders Argues that Democratic Socialism is the Only Path to True Freedom," Pacific Standard, July 24, 2019, <https://psmag.com/ideas/bernies-big-speech-was-about-freedom>.

⁷ Eli Steinberg, "Ted Cruz is Right: You Don't Have a Right to Healthcare," The Federalist, February 10, 2017, <https://thefederalist.com/2017/02/10/ted-cruz-right-dont-right-health-care/>.

This analysis of positive economic rights discourse may harbor significance beyond its historical value. A number of scholars have explored the ways in which elite discourse may inform and shape the opinions of the broader public. Political scientist John Zaller (1992) argues that mass opinion is determined in large part by elite opinion.⁸ He cites evidence that changing elite opinion concerning race during the 1930s precipitated similar attitudinal shifts among the general public in the following decades. This thesis will identify a number of historical shifts in positive economic rights discourse among high-profile political figures. Future political science scholarship may endeavor to investigate what effects, if any, these shifts in elite discourse had on broader public opinion about economic entitlements.

Furthermore, international relations scholar Beth Simmons (2009) argues in *Mobilizing for Human Rights: International Law in Domestic Politics* that international human rights treaties can influence the demands that domestic political actors are willing to make of their respective governments.⁹ Many of the positive economic rights which will feature in this thesis are codified in international treaties, including most notably, the International Covenant on Economic, Social, and Cultural Rights (1966), which the United States has yet to ratify. Indeed, consistent with Simmons' theory, proponents of positive economic rights have cited international legal documents in their activism.

At the local level, positive economic rights have been buoyed by the effects Simmons describes. For example, the West Virginia Supreme Court of Appeals cited the Universal Declaration of Human Rights when it declared education to be a fundamental right in *Pauley v. Kelly* (1979).¹⁰ In addition, the city of Eugene, Oregon, referenced the Universal Declaration of

⁸ Zaller, John, *The Nature and Origins of Mass Opinion*, Cambridge: Cambridge University Press, 1992: p. 13.

⁹ Simmons, Beth A. *Mobilizing for Human Rights: International Law in Domestic Politics*. New York: Cambridge University Press, 2009: 159.

¹⁰ Gillian Macnaughton and Mariah McGill, "Economic and Social Rights in the United States: Implementation Without Ratification," *Northeastern University Law Journal* 4, no. 2 (2012): 388.
<https://www.corteidh.or.cr/tablas/r30417.pdf>

Human Rights when it passed a local human rights ordinance that affirmed support for positive economic rights.¹¹ Though attempts to push for positive economic rights at the local level have occasionally been successful, national attempts have by-and-large failed. This thesis will track a backlash in national political discourse against positive economic rights starting in the late 1960s, shortly after the ICESCR was drafted. Future researchers should investigate whether the signing of the ICESCR by peer countries played any role in generating conservative backlash against economic entitlements during this period.

¹¹ Gillian Macnaughton and Mariah McGill, "Economic and Social Rights in the United States: Implementation Without Ratification," *Northeastern University Law Journal* 4, no. 2 (2012): 401.
<https://www.corteidh.or.cr/tablas/r30417.pdf>.

Part II: Historical Review

Introduction

In the sections that follow, I will trace the development of the concept of positive economic rights throughout American history starting from the Colonial Period. Levying historical political literature, I will aim to show that the concept of positive economic rights is largely a product of New Deal liberalism. Though radical thinkers throughout American history have argued that the state has certain obligations to provide for the basic needs of its citizens, these duties were not framed in terms of individual rights possessed by citizens until the New Deal Era. This historical review will also reveal that support for positive economic rights, though mainstream during the 1930s, began dwindling during the late 1960s as conservative backlash against the welfare state and the Civil Rights Movement intensified. Opponents of positive economic rights frequently invoke certain arguments about moral desert—namely, that assistance should be reserved for those who truly need it—in opposing universal economic entitlements. Of note, opponents of universal entitlements have also levied both explicit and tacit racism to argue against universal entitlements and welfare.

The Colonial Period

In Colonial Period political literature, two broad camps existed over the question of state duties to the poor. The first camp, illustrated by selections from Montesquieu and Thomas Paine, maintained that the state has a fundamental duty to provide for the basic needs of its citizens. The second camp, represented in the following sections by writings from Benjamin Franklin and John Winthrop, believed instead in private and conditional charity for the ‘deserving poor’—those who have no other means of providing for themselves. Importantly, members of the first camp

did not frame state obligations to the poor in terms of positive, individual rights. The distinction between ‘deserving’ and ‘undeserving’ poor will remain relevant through the interceding centuries to the present day. Modern opponents of universal entitlements continue to levy moral arguments akin to those of Winthrop and Franklin to argue for conditional, as opposed to universal, economic assistance to the poor. This undercuts the concept of positive economic rights, which are conceived of as being universal by nature.

During the 17th and 18th centuries, a number of radical thinkers supported the notion of positive economic rights. In *The Spirit of the Laws* (1748), Montesquieu argued that “the alms given to a naked man in the street do not fulfill the obligations of the state, which owes to every citizen a certain subsistence, a proper nourishment, convenient clothing, and a type of life not inconsistent with health.”¹² Montesquieu’s writings, particularly those pertaining to separation of government powers, had a profound impact on American Revolutionary literature.¹³ According to Donald Lutz (1984), Montesquieu was the most cited of all authors in Revolutionary polemics between 1760 and 1805.¹⁴

Perhaps influenced by Montesquieu on this issue, Founding Father Thomas Paine supported establishing a basic income wherein surplus tax revenue would be redistributed through cash payments to children and individuals over fifty.¹⁵ Paine envisioned the provision of basic income as a state obligation.¹⁶ Despite these notable cases, support for government action to combat poverty was by no means universal during the Colonial Period.

¹² Quoted in Cass R. Sunstein, “Why Does the American Constitution Lack Social and Economic Guarantees?” In *American Exceptionalism and Human Rights*, ed. Michael Ignatieff (Princeton: Princeton Univ. Press, 2005), 90.

¹³ Jack P. Greene, “Moderation and Liberty: Montesquieu and the American Founding,” *Reviews in American History* 17, no. 4 (Dec. 1989): 535-539. <https://doi.org/2703428>.

¹⁴ Donald S. Lutz, “The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought,” *The American Political Science Review* 78, no. 1 (1984): 189-97, <https://doi.org/10.2307/1961257>.

¹⁵ J. E. King & John Marangos, “Two Arguments For Basic Income: Thomas Paine (1737-1809) and Thomas Spence (1750-1814),” *History of Economic Ideas* 14, no. 1 (2006): 59, <http://www.jstor.org/stable/23723271>.

¹⁶ King & Marangos, “Two Arguments For Basic Income: Thomas Paine (1737-1809) and Thomas Spence (1750-1814),” 59.

Several key American figures during this period invoked Christian themes to argue instead for a more conservative type of wealth redistribution to benefit the poor. During his 1629 emigration voyage from England, Massachusetts Governor John Winthrop prepared a sermon entitled “A Model of Christian Charity” in which he outlined his hopes for the new colony.¹⁷ Typically known for its “Shining City on a Hill” metaphor, the sermon also addresses class divisions and the duties that wealthy Bay Colonists owed to their poorer compatriots. Winthrop argued that the perennial existence of class divisions reflects God’s Will. However, wealth disparities, Winthrop said, exist for no other reason than to further the glory of God. Wealthy Christians must therefore look after their poorer brethren in times of need:

*“Lastly, when there is no other means whereby our Christian brother may be relieved in his distress, we must help him beyond our ability rather than tempt God in putting him upon help by miraculous or extraordinary means. This duty of mercy is exercised in the kinds: giving, lending, and forgiving.”*¹⁸

Winthrop’s model of Christian charity imposes a conditional, rather than universal obligation upon the rich to provide for the colony’s poor; wealthy Christians only have a duty to help people who have no other means of providing for themselves.

In his 1758 essay “The Way to Wealth,” Benjamin Franklin articulated a view of charity remarkably similar to that expressed by Winthrop. Franklin excoriates “idleness” (alternatively, “sloth,”) claiming it brings about disease and taxes people many times more than “those [taxes] laid on by government.”¹⁹ Franklin offers a concise maxim to overcome these burdens: “God helps them that help themselves.” Franklin continues: “Diligence is the mother of good luck, and

¹⁷ Keith Whittington, *American Political Thought* (New York: Oxford University Press, 2017), 58.

¹⁸ Qtd. in Whittington, *American Political Thought*, 59.

¹⁹ Qtd. in Whittington, *American Political Thought*, 64.

God gives all things to industry. Then plow deep while sluggards sleep, and you shall have corn to sell and to keep.”²⁰ He cautions, though, that industry, frugality, and prudence alone will not grant Salvation. Christians should therefore offer charity to those “that at present, seem to want [lack] it.”²¹ In excoriating idleness, Franklin seems to insinuate the existence of a class that is less deserving of charity—those whose poverty is caused by a simple failure to help themselves. After all, self-help brings with it divine reward, and charity may discourage the idle poor from improving their condition themselves.

Whereas Paine and Montesquieu argue for collective action in the form of public (i.e., state-run) and universal economic guarantees, Winthrop and Franklin urge private and conditional charity as a solution to poverty. Winthrop’s sermon, though steeped in religious language, evidently reflected his political beliefs as well, given that the Massachusetts Bay Colony was a theocracy. Historian Stanley Gray has likewise characterized Winthrop’s “Christian Charity” as evincing “the bases of [Winthrop’s] political thought.”²²

It may be argued, however, that Benjamin Franklin’s emphasis on industry and private charity is not incompatible with belief in positive economic guarantees as a matter of public policy. This assessment is likely incorrect. The sentiment “God helps them that help themselves” implies that policies which reduce self-help deprive people of some divine good. Universal economic guarantees clearly deprive people of the opportunity for self-help in many circumstances; universal food stamps, for example, make it unnecessary to labor in order to meet basic caloric needs. For this reason, Franklin’s maxim seems incompatible with the arguments forwarded by Paine and Montesquieu.

²⁰ Ibid.

²¹ Ibid.

Given the context, I interpret Franklin’s usage of “want” to be synonymous with “lack”

²² Stanley Gray, “The Political Thought of John Winthrop,” *The New England Quarterly* 3, no. 4 (1930): 681-705.

In the arguments from the Colonial Period presented above, we see two camps emerge. The first, typified by Paine and Montesquieu, believed that the state was obligated to provide for the basic needs of its citizens. The second camp, represented in the excerpts from Winthrop and Franklin, argues instead for private and conditional charity for those who cannot otherwise provide for themselves—the ‘deserving poor,’ as the class might be called. The first camp does not frame state obligations to the poor in terms of individual rights.

The Nineteenth Century

In the early nineteenth century, Thomas Jefferson espoused the importance of land ownership as a source of self-sufficiency and liberation from economic subordination. In fact, Jefferson believed so strongly in land ownership that he attempted to include a positive entitlement to land within the Virginia Constitution. But Jefferson stopped short of advocating for land redistribution to achieve universal economic self-sufficiency. And of course, he did not advocate for the economic liberation of the slave population. As the Industrial Revolution progressed, radicals began to eschew Jefferson in demanding redistributive state action to amend rapidly worsening social and economic inequalities. The growing push for wealth redistribution can be considered the most pertinent development of the Nineteenth Century with respect to this thesis. The following sections will examine works from Jefferson and the Populist Party to illustrate these developments.

During the first half of the Nineteenth Century, belief in positive economic entitlements lingered at the radical fringes of American political discourse. In 1776, Thomas Jefferson proposed a draft constitution for the state of Virginia which would have provided for the allocation of 50 acres of land to landless Virginians:

*“Every person of full age neither owning nor having owned fifty acres of land shall be entitled to an appropriation of fifty acres or to so much as shall make up what he owns or has owned fifty acres in full and absolute dominion, and no other person shall be capable of taking an appropriation.”*²³

Historian Stanley Katz (1976) argues that Jefferson’s proposal evinces an ideological commitment to the wide distribution of property. According to Katz, Jefferson believed that property ownership enabled independent labor, which was the only means by which “a man could divest himself of subordination to superiors and cultivate that inner strength upon which Republicanism depended.”²⁴ In this way, Jefferson conceives of property allocation as a liberatory endeavor—freeing destitute Virginians from economic subordination. Jefferson’s provision would have enshrined a positive right to property within the Virginia Constitution insofar as landless Virginians would have been legally entitled to receive land from the state.

Had it succeeded, Jefferson’s proposal would have been redistributive in that the allocated land would likely have been seized from Native Americans. However, Jefferson never supported policies that would have redistributed wealth among American citizens, a stance Katz attributes to his belief in limited government.²⁵ Interestingly, Jefferson articulated the need for progressive taxation to combat the economic power of the European aristocracy during a visit to France in 1785, but these beliefs seem not to have survived his voyage home.²⁶

The Federalist Party constituted the Jeffersonian Democrats’ principal opposition during the early 19th century. The Federalists, led by Alexander Hamilton, favored interventionist

²³ Stanley Katz, “Thomas Jefferson and the Right to Property in Revolutionary America,” *The Journal of Law & Economics* 19, no. 3 (1976): 470, <http://www.jstor.org/stable/725077>.

²⁴ Katz, “Thomas Jefferson and the Right to Property in Revolutionary America,” 474.

²⁵ *Ibid.*, 481.

²⁶ *Ibid.*

economic policies to support America's nascent industrial sector against foreign competition. Whereas Jeffersonian Democrats preferred an economy based on agriculture due to farm labor's purported compatibility with Republican virtue, Federalists advocated for industrialization—stressing the importance of domestic industry to national security and the long-term viability of American independence. In the long run, the Jeffersonians lost. America emerged as a leading industrial power during the 19th century.²⁷ The Industrial Revolution drove pre-existing economic inequality to new extremes.²⁸

Academics have long remarked on the relative weakness of America's socialist movement, especially when compared to socialist movements of other Western countries.^{29, 30} Many of America's early, pre-Marxian socialists were motivated by utopian religious beliefs.³¹ As industrialization progressed throughout the century, America experienced unprecedented levels of wealth inequality, which reached an apogee during the Gilded Age (late 1800s-1900).³² Rising wealth inequality fueled the proliferation of socialism and other forms of radicalism among the working class.³³ Notable examples of late-century radicalism include the Pullman Railway Strike of 1894, orchestrated by socialist labor leader Eugene Debs, and the formation of the anti-monopoly Populist Party in 1892, which achieved limited success in that year's Presidential Election.³⁴

²⁷ Morris Hillquit, *History of Socialism in the United States* (New York: Dover Publications, 1971), 17.

²⁸ Ibid.

²⁹ Sombart, Werner, Patricia M. Hocking, C. T. Husbands, and Michael Harrington. *Why is There No Socialism in the United States?* New York: Routledge, 1976.

³⁰ Albert Fried, Introduction, In: M. Hillquit, *History of Socialism in the United States* (New York: Dover Publications, 1971), xii.

³¹ Morris Hillquit, *History of Socialism in the United States* (New York: Dover Publications, 1971), 135-136.

³² Hillquit, *History of Socialism in the United States*, 138.

³³ Whittington, *American Political Thought*, 365-366.

³⁴ John Woolley & Gerhard Peters, "1892," *The American Presidency Project*, University of California, Santa Barbara, Accessed March 13, 2022, <https://www.presidency.ucsb.edu/statistics/elections/1892>.

Some Gilded Age radicals intimated at support for positive economic rights. Echoing Jefferson, The 1892 Populist Party Platform called for “equal rights and equal privileges... for all the men and women of this country.”³⁵ It appears the Populists believed *positive* government action was necessary to secure “equal privileges” for all, given that the Party’s platform called for the seizure and redistribution of land from railroad monopolies.³⁶ This, however, falls short of an explicit declaration that Americans have an individual right to receive property from railroad monopolies. The Populists frame their goals in collective terms rather than addressing the question of individual economic entitlements. Toward the end of the century, socialists and other radicals were joined in their political activism by scores of “progressives,” typically middle-class, reformist liberals. It is from the Progressive tradition that the most explicit positive rights discourse would emerge in the twentieth century.

Civil War and Reconstruction

Following the Civil War, the question of liberty began to preoccupy antislavery activists. Was legal emancipation sufficient to free the slaves? Some argued no—that true freedom required economic restitution to hasten the formerly enslaved population’s transition from bondage to economic self-sufficiency. Efforts to enhance the positive liberty of the freedmen were met with backlash, most notably from President Johnson, who viewed economic assistance to former slaves as a type of reverse discrimination against the white population. Racist backlash against economic assistance to the black population will likewise feature in the political discourse of the 1960s.

³⁵ John Woolley & Gerhard Peters, “Populist Party Platform of 1892,” *The American Presidency Project*, University of California, Santa Barbara, Accessed March 13, 2022, <https://www.presidency.ucsb.edu/documents/populist-party-platform-1892>.

³⁶ *Ibid.*

Since the Colonial Period, opponents to slavery had remarked on the glaring inconsistencies in American political thought on the subject of freedom. The earliest colonists fled to the New World to seek freedom from religious persecution in England, the Revolutionary War had been fought in the name of liberty, and the American Constitution had established for the citizen population one of the most expansive array of rights enjoyed in the world.

Despite all of this, millions of enslaved people continued to be held in bondage into the mid-nineteenth century, over two hundred years after the arrival of the first African slaves to Virginia in 1619.³⁷ Early abolitionists typically emphasized the moral unacceptability of slavery in terms of the institution's violation of negative rights and freedoms. For example, in a 1774 petition for emancipation to Massachusetts Governor Thomas Gage, a number of anonymous enslaved people wrote that "we have in common with all other men a natural right to our freedoms... as we are a freeborn people and have never forfeited this blessing by any compact or agreement whatever."³⁸ The petitioners continue: "we therefore beg...that you will accordingly cause an act of the legislature to be passed that we may obtain our natural right [and] our freedoms, and our children be set at liberty." This argument demands state action to emancipate enslaved people from servitude as a means of securing their natural rights and freedoms, from which they had been deprived through bondage.

Following the Civil War, Congressional Republicans spearheaded Reconstruction—a series of reforms aimed at solidifying emancipation and reincorporating the former Confederate states into the Union. Three constitutional amendments were ratified during this period. These so-called "Reconstruction Amendments" consisted of the thirteenth, which abolished slavery nationwide, the fourteenth, which guarantees equal protection under the law to all citizens, and

³⁷ David J. Hacker, "From '20. and Odd' to 10 Million: the Growth of the Slave Population in the United States," *Slavery & Abolition* 41, no. 4 (2020): 840-855.

³⁸ Quoted in Keith Whittington, *American Political Thought*, 52.

the fifteenth, which outlawed voting restrictions based on race or previous condition of servitude. The Reconstruction Amendments all aimed at protecting the civil and political rights of formerly enslaved Black Americans. But others suggested that more substantive action was required to meaningfully enfranchise the freedmen.

In the aftermath of William Tecumseh Sherman's successful "March to the Sea" campaign in Georgia in late 1864, the General met with twenty Black ministers to solicit advice on how to assist the formerly enslaved population.³⁹ The ministers urged that land be redistributed to freedmen as a means of hastening their transition from servitude to voluntary labor and economic self-sufficiency.⁴⁰ Sherman issued Special Field Order No. 15 in January 1865, which entitled freedmen and their families to "40 acres of tillable ground." Later, Sherman also extended the entitlement to include a mule, spawning the phrase "40 acres and a mule," which has become paradigmatic of the United States government's failure to fully rectify slavery during Reconstruction.

Following Sherman's order, land redistribution began in earnest; by June, 40,000 freedmen had resettled on "Sherman Land."⁴¹ Sherman Land predominantly consisted of land that had been seized from slave owners during the war. President Johnson overturned the order mere months after its issuance and returned most of the redistributed land to its original owners—former slaveholders.⁴²

Aside from Sherman's field order, Congress established the Freedmen's Bureau in 1865 to coordinate humanitarian assistance to the formerly enslaved population. The Bureau's activities included providing food, shelter, clothing, medical services, and land to freedmen and

³⁹ Henry Louis Gates, Jr., "The Truth Behind '40 Acres and a Mule,'" PBS, accessed March 22, 2022, <https://www.pbs.org/wnet/african-americans-many-rivers-to-cross/history/the-truth-behind-40-acres-and-a-mule/>.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Gates Jr., "The Truth Behind '40 Acres and a Mule.'"

other displaced Southerners.⁴³ The creation of the bureau was not uncontroversial. The proposal was met with backlash by the likes of Iowa Senator James Grimes, who retorted “are [formerly enslaved people] free men or are they not? If they are free, why not let them stand as free men?”⁴⁴ Radical Republican Charles Sumner responded that “assistance [is] a necessity during the transition from slavery to freedom.”⁴⁵

In Sumner’s response, we see a more expansive conception of freedom than the merely negative one conceived of by Senator Grimes. Now that the institution of slavery had been abolished, radicals like Sumner began arguing that abolition in and of itself was insufficient to free the slaves. Though negatively free from the bonds of slavery, freedmen were nonetheless precluded from enjoying freedom in the positive sense due to extreme poverty generated by centuries of forced servitude. Backlash ultimately hamstrung the power of the Freedmen’s Bureau during its short years of operation. The most notable backlash came from President Andrew Johnson, who vetoed the extension of the Bureau’s charter in 1866.⁴⁶

Although positive economic rights appear not to have featured within abolitionist and reconstructionist discourse, positive liberty and what was required to secure it began to preoccupy activists following abolition. As will be discussed later in this thesis, twentieth century civil rights advocates would also invoke themes of positive liberty in their activism.

Another key takeaway of the Civil War and Reconstruction eras is the backlash generated by efforts to economically uplift the formerly enslaved Black population. In his veto of the Civil Rights Bill of 1866, Andrew Johnson fretted that Reconstruction had gone too far; that it had established safeguards which go “indefinitely beyond any that which the Central Government

⁴³ “Freedmen’s Bureau Acts of 1865 and 1866,” United States Senate, accessed March 22, 2022, <https://www.senate.gov/artandhistory/history/common/generic/FreedmensBureau.htm>.

⁴⁴ Quoted in United States Senate, “Freedmen’s Bureau Acts of 1865 and 1866.”

⁴⁵ Ibid.

⁴⁶ W.E.B DuBois, in *The Souls of Black Folk by W.E.B DuBois: With a Critical Introduction by Patricia H. Hinchey*, ed. Patricia H. Hinchey (Gorham: Myers Education Press, 2018): 25.

has provided for the White race.”⁴⁷ “In fact,” Johnson continued, “the distinction of race and color is by the bill made to operate in favor of the colored against the white race.” Similar logic was employed when Johnson overturned Sherman’s field order entitling freemen to 40 acres. But Johnson was wrong. Such proposals did have precedent. Sherman’s Special Field Order no. 15 bears incredible similarity to Thomas Jefferson’s relatively uncontroversial proposal to entitle landless White Virginians to 50 acres of land. The only notable difference? The race of the recipients.

The Progressive Era

The Progressive Era refers to the period between approximately 1901 and 1932. It was an age of reformism⁴⁸ which emerged as a reaction to the social, political, and economic changes of the late nineteenth century. Though their specific goals varied, progressive reformist groups generally endeavored to expand democracy, combat political corruption, and curb economic exploitation.⁴⁹ Historian Richard Hofstadter attributes to progressive movements a “general theme” of advocacy for “economic independence and political democracy” against the emerging power of large corporations and political machines.⁵⁰ The most important development of the Progressive Era with respect to this thesis was the growing prominence of positive liberty within mainstream political discourse.

Progressives existed in both major political parties, and varied in their degree of radicalism. However, progressives agreed upon one thing: that government intervention was required in some sense to correct the ills of contemporary society. Even relatively conservative

⁴⁷ “Andrew Johnson’s Veto of the Civil Rights Act, 1866,” Bill of Rights Institute, accessed March 22, 2022, <https://billofrightsinstitute.org/activities/andrew-johnsons-veto-of-the-civil-rights-act-1866>.

⁴⁸ Whittington, *American Political Thought*, 425.

⁴⁹ Ibid.

⁵⁰ Richard Hofstadter, *The Age of Reform: From Bryan to F.D.R* (New York: Vintage, 1955), 3-5, quoted in Keith Whittington, *American Political Thought* (New York: Oxford University Press, 2017), 425.

progressives like Woodrow Wilson argued that changing social circumstances necessitated a reconceptualization of traditional American political commitments like liberty. In a 1913 book outlining his “New Freedom” presidential campaign platform, Wilson explained:

“We used to think... that all that government had to do was to put on a policeman’s uniform and say, ‘Now don’t hurt anybody else.’ We used to say that the ideal of government was for every man to be left alone and not interfered with... and that the best government was [that] which did as little governing as possible. That was the idea that obtained in Jefferson’s time. But we are coming to realize that... the law has to step in and create new conditions under which we may live, the conditions which will make it tolerable for us to live.”⁵¹

Wilson interrogates Jeffersonian ideals, and argues that social conditions had changed so drastically since the Jeffersonian Era that government non-interference could no longer produce the sort of freedom from economic subordination that Jefferson had envisioned. In fact, Wilson declared that freedom itself meant something profoundly different in the twentieth century than it had in the nineteenth: “freedom today is something more than being let alone. The program of a government of freedom must in these days be positive, not negative merely.”⁵²

In other words, government must take action to rein in corporations and political machines which restrained freedom by “crushing” (437) the poor. *The New Freedom’s* central thesis therefore rests upon a conception of freedom broader than the ‘negative’ freedom which had previously preoccupied American political discourse. To Wilson, the former was more

⁵¹ Quoted in Whittington, *American Political Thought*, 438.

⁵² *Ibid.*

relevant to contemporary society, and government intervention was required to secure it. Note, however, the absence of any explicit mention of positive rights in *The New Freedom*.

The Progressive case is perhaps best articulated in Herbert Croly's 1909 book *The Promise of American Life*. Croly, founder of the left-wing magazine *The New Republic*, was a journalist and political philosopher whose work influenced scores of progressives, including Theodore Roosevelt, and later, Franklin Roosevelt and other New Deal liberals.⁵³ Croly, like Wilson, accepted Thomas Jefferson's overarching vision of an egalitarian, democratic society devoid of special privileges, but challenged Jefferson's prescriptions for how to realize that vision. In *The Promise of American Life*, Croly highlights an apparent contradiction in the American system. On the one hand, America claims a commitment to the "democratic principle,"⁵⁴ or equality of opportunity. On the other, it espouses support for equal rights.

Croly believes that the second principle has the potential to undermine the first. According to Croly, the exercise of certain rights—namely, property rights—undermines the democratic principle by promoting inequalities of opportunity. An example of this point might be a railroad monopolist who invokes property rights to protect his enterprise, though it harms the economic prospects of others. He believes this fact justified positive action on behalf of the state to amend inequalities. He also argued that: "a wholesale democracy should seek to guarantee to every male adult a certain minimum of economic power and responsibility" because "the individuals constituting a democracy lack the first essential of individual freedom when they cannot escape from a condition of economic independence."⁵⁵ Croly's manifesto has been

⁵³ Sidney Pearson, "Herbert Croly: Apostle of Progressivism," The Heritage Foundation, March 14, 2013, <https://www.heritage.org/political-process/report/herbert-d-croly-apostle-progressivism>.

⁵⁴ Herbert Croly, *The Promise of American Life* (1909), quoted in Keith Whittington, *American Political Thought*, 475.

⁵⁵ Croly, *The Promise of American Life* (1909), qtd. in Whittington, *American Political Thought*, 478.

summarized as advocating for “Jeffersonian ends through Hamiltonian means.”⁵⁶ In other words, Croly embraces the nationalist interventionism espoused by Alexander Hamilton to construct the democratic society envisioned by Thomas Jefferson.

The Progressive Era is notable in the history of American political thought because positive liberty emerged as a widely accepted, mainstream policy objective by members of both major political parties. Support for government interventionism was justified on the grounds that changing social and economic conditions introduced novel threats to liberty and equal opportunity which could only be ameliorated through state action. In the decades that followed the Progressive Era, a generation of left-wing philosophers and politicians would extend the progressive narrative even further, redefining ‘liberalism’ in the process. It is within modern liberalism that the first enumeration of positive economic rights occurs.

The Great Depression and the Rise of Modern Liberalism

The Great Depression began in 1929 following the American stock market crash in October of that year. President Herbert Hoover had campaigned in the 1928 presidential election on a laissez-faire economic platform.⁵⁷ As the recession continued unabated throughout the full duration of Hoover’s term, the public began to view Hoover’s conservative non-interventionism as an exacerbating factor in their economic hardship.⁵⁸ Hoover’s Democratic challenger in the 1932 Presidential election, Franklin Delano Roosevelt, articulated a vision for America drastically different from Hoover’s discredited “rugged individualism.” It is during the New Deal Era that the framing of state duties to the poor as “rights” occurs for the first time.

⁵⁶ Samuel Hammond, “Hamiltonian Means, Jeffersonian Ends,” *American Compass*, May 20, 2020, <https://americancompass.org/the-commons/hamiltonian-means-jeffersonian-ends/>.

⁵⁷ Herbert Hoover, “Rugged Individualism Speech,” October 22, 1928, in *American Political Thought*, ed. Keith Whittington (New York: Oxford University Press, 217), 505-507.

⁵⁸ Nicholas Lemann, “Hating on Herbert Hoover,” *The New Yorker*, October 16, 2017, <https://www.newyorker.com/magazine/2017/10/23/hating-on-herbert-hoover>.

During a campaign speech before the Commonwealth Club of San Francisco in 1932, Roosevelt laid out his political philosophy.⁵⁹ In the speech, Roosevelt levied arguments that had originally been posited by progressives decades prior. For example, Roosevelt paid homage to the Jeffersonian democratic vision and the traditional American value of individualism, just as Croly and Wilson had done:

*“Even Jefferson realized that the exercise of property rights might so interfere with the rights of the individual that the Government, without whose assistance the property rights could not exist, must intervene, not to destroy individualism, but to protect it.”*⁶⁰

Roosevelt argued that the closing of the American frontier,⁶¹ the emergence of “economic machines” (large corporations) on the East Coast, and the conditions of the Great Depression had curtailed opportunity in agriculture and business.⁶² He believed that these economic facts deprived Americans of their rights to life, liberty, and the pursuit of happiness.⁶³ What’s more, Roosevelt denounced growing wealth inequality and the power of a highly organized economic elite: “Put plainly, we are steering a steady course toward economic oligarchy, if we are not there already.”⁶⁴ We see in the Commonwealth Address a clear and robust enumeration of several positive economic rights which Roosevelt believes derive from rights we already take to exist.

For example, Roosevelt states:

“Every man has a right to life; and this means that he has also a right to make a comfortable living. He may by sloth or crime decline to exercise that right; but it may not be denied him. Our

⁵⁹ Keith Whittington, *American Political Thought*, 508.

⁶⁰ Quoted in Whittington, *American Political Thought*, 509.

⁶¹ Frederick Jackson Turner, *The Significance of the Frontier in American History*, (New York: Penguin, 2008.)

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid, 510.

*government... owes to everyone an avenue to possess himself of a portion of that plenty sufficient for his needs, through his own work.”*⁶⁵

In the above quotation, Roosevelt reinterprets the traditionally negative right to life as a positive one which grants an entitlement to the means of sustenance. Similarly, Roosevelt argues for a positive right to property, in which the protection of property rights necessitates that the government curtail the “speculator, manipulator, [and] even the financier” through regulation in order to ensure the safety of American citizens’ financial assets.⁶⁶ However, he stops short of endorsing socialism, or the termination of the institution of private property, saying:

*“[We should not] abandon the principle of strong economic units called corporations merely because their power is susceptible to easy abuse. In other times we dealt with the problem of an unduly ambitious central Government by modifying it gradually into a constitutional democratic Government. So today we are modifying and controlling our economic units.”*⁶⁷

To be sure, Roosevelt was not a socialist. He viewed his political mission as that of saving liberal democracy from the external threats of fascism and communism, and from the internal threats posed by a changing economic and social order.⁶⁸ His belief that liberal democracy needed to be substantively transformed to survive modern conditions was accepted

⁶⁵ Quoted in Whittington, *American Political Thought*, 511.

⁶⁶ Ibid.

⁶⁷ Ibid, 510.

⁶⁸ Peter Canellos, “What FDR Understood About Socialism That Today’s Democrats Don’t,” Politico, August 16, 2019, <https://www.politico.com/magazine/story/2019/08/16/democrats-socialism-fdr-roosevelt-227622/>.

by a large cohort of contemporary liberals. It was thus during this period that “liberalism” began to acquire the center-left connotation within the United States which it retains today.⁶⁹

The theme of Freedom also featured prominently within Roosevelt’s political philosophy. During his 1941 State of the Union Address, Roosevelt urged the American people to rally in defense of Britain against the Axis Powers.⁷⁰ He framed the war against fascism as a crusade to secure the “Four Freedoms” — freedom of speech, freedom of religion, freedom from want, and freedom from fear—for all humankind.⁷¹ The first two freedoms, those of speech and of religion, are self-explanatory and appear relatively uncontroversial through a contemporary American lens. Freedom from want refers to the positive liberty someone derives from having their basic needs met. Freedom from fear typically refers to the positive liberty acquired from security. The first, second, and fourth freedoms, being impertinent to this thesis, will not be discussed further.

Roosevelt’s Freedom from Want represents an alternative philosophical justification for positive economic rights. Recall that in his Commonwealth Address, Roosevelt argued that positive economic rights derive from rights we already take to exist—those of life, property, and the pursuit of happiness. He had claimed that new threats to our rights, namely the power of large corporations, made necessary new methods to secure those rights. In his 1941 State of the Union Address, Roosevelt instead argued that the fulfillment of positive economic rights is required to free people from excessive want, which is necessary to maintain a strong democracy.⁷²

Roosevelt’s framing of Freedom from Want as vital to the health of democracy echoes a similar point articulated by Croly in his *Promise of American Life*.⁷³

⁶⁹ Warren Breckman, “The Conflicted Soul of Modern Liberalism,” *The New Republic*, January 24, 2019, <https://newrepublic.com/article/152935/conflicted-soul-modern-liberalism>.

⁷⁰ Franklin D. Roosevelt, “1941 State of the Union Address,” transcript of speech delivered in Washington, D.C., Jan. 6, 1941, <https://millercenter.org/the-presidency/presidential-speeches/january-6-1941-state-union-four-freedoms>.

⁷¹ Roosevelt, “1941 State of the Union Address.”

⁷² Roosevelt, “1941 State of the Union Address.”

⁷³ Croly, *The Promise of American Life* (1909), qtd. in Whittington, *American Political Thought*, 478.

As an aside, recent sociological research seems to confirm Croly and Roosevelt's view that poverty is detrimental to democracy. A study conducted by researchers at Columbia University found that low-income Americans voted at significantly lower rates in the 2016 presidential election than their wealthier counterparts.⁷⁴ The study cites transportation issues, illness, and disability as causes for lower turnout among poorer Americans.⁷⁵

Much of Roosevelt's New Deal agenda was geared toward lifting destitute Americans out of poverty: millions were put to work in public works projects, the Social Security Administration was established, and major banking reforms were enacted to protect Americans' savings from speculation.

In his 1944 State of the Union Address, Roosevelt reflected upon the progress made during his administration. He reiterated his belief in positive economic rights in what would come to be known as his "Second Bill of Rights Speech." Roosevelt began his address before Congress with a history lesson: The United States was founded upon certain rights and freedoms that were sufficient for a while,⁷⁶ but as the nation expanded geographically and economically, "these political rights proved inadequate to ensure equality in the pursuit of happiness." Then, Roosevelt stated: "We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence. Necessitous men are not free men. People who are hungry and out of a job are the stuff of which dictatorships are made."⁷⁷

⁷⁴ Matt Stevens, "Poorer Americans Have Much Lower Voting Rates Than the Nonpoor, a Study Finds," New York Times, August 11, 2020, <https://www.nytimes.com/2020/08/11/us/politics/poorer-americans-have-much-lower-voting-rates-in-national-elections-than-the-nonpoor-a-study-finds.html>.

⁷⁵ Robert Paul Hartley, "Unleashing the Power of Poor and Low-Income Americans," The Poor People's Campaign, accessed March 27, 2022, <https://www.poorpeoplescampaign.org/wp-content/uploads/2020/08/PPC-Voter-Research-Brief-18.pdf>.

⁷⁶ Franklin D. Roosevelt, "1944 State of the Union Address," transcript of speech delivered in Washington, D.C., Jan. 11, 1944, <https://www.fdrlibrary.org/address-text>.

⁷⁷ Roosevelt, "1944 State of the Union Address."

He continued that certain rights had come to be recognized as self-evident in recent years. Among these were the right to a “good education,” “the right of every family to a decent home,” the right to healthcare, the right to employment, and the right to make an income sufficiently large to support a decent standard of living.⁷⁸ Roosevelt requested that Congress investigate ways of implementing this “Economic Bill of Rights” legislatively.⁷⁹

The Civil Rights Movement

A number of twentieth century racial justice advocates invoked progressive economic themes in their activism. Like the Reconstructionists before them, these activists viewed economic liberation as a necessary component of racial justice. Among this cohort of racial justice advocates was A. Philip Randolph, a socialist and founder of the Brotherhood of Sleeping Car Porters labor union. Randolph and his union organized the March on Washington Movement during the 1940s, which successfully pressured the Federal Government to end racial discrimination in hiring practices for federal agencies.⁸⁰

In a 1942 speech at the March on Washington, Randolph argued that equality of civil and political rights within a liberal democratic system would not be sufficient to establish racial justice.⁸¹ Instead, Randolph called for “economic democracy that will make certain the assurance of the good life—the more abundant life—in a warless world.” Randolph continued: “a community is democratic only when the humblest and weakest person can enjoy the highest civil, economic, and social rights that the biggest and most powerful possess.”⁸²

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Keith Whittington, *American Political Thought*, 533.

⁸¹ A. Philip Randolph, “Why Should We March?,” Transcript of Essay Nov. 30, 1942, <https://teachingamericanhistory.org/document/why-should-we-march/>.

⁸² Ibid.

Randolph, like Franklin Roosevelt, argued for positive economic rights on the grounds that they are necessary for healthy democracy. Randolph went further than Roosevelt in arguing for “economic democracy,” a term that typically refers to the strengthening of public (and democratic) economic power against private (and unelected) economic power. Randolph’s use of the term evinces his socialist leanings,⁸³ as it is typically invoked by socialists who conceive of corporate structures as inherently undemocratic and dictatorial when compared to the public sector which is theoretically⁸⁴ accountable to the voting public through elections.⁸⁵

A. Philip Randolph also played a central role in organizing the 1963 March on Washington for Jobs and Freedom, at which Martin Luther King, Jr. delivered his “I Have a Dream” speech. Despite the ‘Civil Rights’ label which the 1960s racial justice movement acquired, advocacy for positive economic rights was also a central feature of the 1963 March on Washington. In particular, the March organizers called for the federal government to guarantee employment to all Americans as a right,⁸⁶ and to raise the minimum wage.⁸⁷

The Conservative Movement

Beginning in the mid-1960s, backlash against modern liberalism and the Civil Rights Movement began to intensify. The Republican Party nominated conservative Arizona Senator Barry Goldwater for the presidency during the 1964 election cycle. Goldwater gained notoriety

⁸³ Keith Whittington, *American Political Thought*, 533.

⁸⁴ Martin Gilens and Benjamin I. Page, “Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens,” *Perspectives on Politics* 12, no. 3 (2014): 564–81. doi:10.1017/S1537592714001595.

⁸⁵ Andrew Cumbers, “Economic Democracy: Why Handing Power Back to the People Will Fix Our Broken System,” *The Conversation*, accessed April 3, 2022, <https://theconversation.com/economic-democracy-why-handing-power-back-to-the-people-will-fix-our-broken-system-126122>.

⁸⁶ Ross Eisenbrey, “Key Goals of 1963 March on Washington for Jobs and Freedom Still Unmet,” *Economic Policy Institute*, accessed April 4, 2022, <https://www.epi.org/blog/key-goals-1963-march-washington-jobs-freedom/>.

⁸⁷ Alex Camardelle, “Full Employment and Living Wages for Black Workers: The Unfinished Demands of MLK,” *The Hill*, accessed April 4, 2022, <https://thehill.com/opinion/civil-rights/589956-full-employment-and-living-wages-for-black-workers-the-unfinished/>.

(acclaim in the Deep South)⁸⁸ for his opposition to the Civil Rights Act of 1964.⁸⁹ Though Goldwater was handily defeated in the 1964 election by incumbent Democrat Lyndon Johnson, his candidacy heralded the beginning of a rightward shift within Republican Party politics that would continue for several decades.⁹⁰ Goldwater’s campaign also garnered an endorsement from Ronald Reagan, who lambasted the growth of the welfare state in his endorsement speech, “A Time For Choosing.”⁹¹

Following Goldwater’s landslide defeat, President Johnson enacted the largest expansion of the welfare state since the New Deal. Johnson’s legislative program, called “The Great Society,” included the creation of Medicare and Medicaid, the passage of the Voting Rights Act of 1965, and a doubling of anti-poverty spending.⁹² Great Society programs were largely successful in reducing poverty: from 1960 to 1970, the percentage of Americans living below the poverty line fell from 22% to 12%.⁹³

Whereas the New Deal had primarily benefited poor white Americans,⁹⁴ many of the beneficiaries of Great Society programs were black.⁹⁵ By 1967, many Americans had soured on government anti-poverty programs. According to a poll conducted that year, two-thirds of respondents agreed with the statement that “the relief rolls are loaded with chiselers and people

⁸⁸ Michael A. Cohen, *American Maelstrom: The 1968 Election and the Politics of Division* (New York: Oxford University Press, 2016), 173.

⁸⁹ Bart Barnes, “Barry Goldwater, GOP Hero, Dies,” Washington Post, accessed April 4, 2022, <https://www.washingtonpost.com/wp-srv/politics/daily/may98/goldwater30.htm>.

⁹⁰ Bart Barnes, “Barry Goldwater, GOP Hero, Dies,” Washington Post, accessed April 4, 2022, <https://www.washingtonpost.com/wp-srv/politics/daily/may98/goldwater30.htm>.

⁹¹ Ronald Reagan, “A Time For Choosing,” transcript of speech delivered on October 27, 1964, <https://www.reaganlibrary.gov/reagans/ronald-reagan/time-choosing-speech-october-27-1964>.

⁹² Karen Tumulty, “The Great Society at 50,” The Washington Post, May 17, 2014, <https://www.washingtonpost.com/sf/national/2014/05/17/the-great-society-at-50/>.

⁹³ “Evaluating the Success of the Great Society,” The Washington Post, accessed April 5, 2022, <https://www.washingtonpost.com/wp-srv/special/national/great-society-at-50/>.

⁹⁴ Michael A. Cohen, *American Maelstrom: The 1968 Election and the Politics of Division* (New York: Oxford University Press, 2016), 19.

⁹⁵ Michael A. Cohen, *American Maelstrom: The 1968 Election and the Politics of Division*, 22.

who just don't want to work."⁹⁶ Michael A. Cohen attributes the new wave of backlash against government activism to racism. Polling data seems to corroborate this. According to a poll cited by Cohen, 85% of white Americans felt that "blacks were trying to move too fast" in autumn 1966, whereas two years earlier only 34% agreed with that statement.⁹⁷

Republican politicians harnessed conservative backlash against the civil rights movement and Johnson's Great Society during the 1968 Presidential Election. In the 1968 Republican Primaries, Richard Nixon vied for the nomination against right-wing populist Ronald Reagan and moderate Nelson Rockefeller. Reagan ran on a socially and fiscally conservative platform opposed to big government, crime, welfare abuse, feminism, and campus anti-war protests, among other things.⁹⁸ Reagan's right-wing message found support among Americans who resented the social and economic change of the 1960s. On the topic of welfare, many Americans were concerned that they were paying into a system from which they received little benefit themselves.⁹⁹ Reagan's attacks on welfare also tapped into the widespread perception that many welfare recipients were criminals and freeloaders.¹⁰⁰

On the campaign trail, Reagan joked about welfare recipients who "drove around ghetto streets in brand-new Cadillacs."¹⁰¹ Reagan also attributed rising crime rates to a decline in industriousness and self-reliance caused by welfare dependence.¹⁰² During a campaign speech in Indiana, Reagan lamented that "what were once considered privileges are now recognized as rights," an apparent swipe at the positive rights discourse of post-New Deal liberalism.¹⁰³

Reagan's opposition to positive economic rights seems to constitute the logical conclusion of his

⁹⁶ Michael A. Cohen, 24

⁹⁷ Cohen, 25.

⁹⁸ Michael A. Cohen, *American Maelstrom: The 1968 Election and the Politics of Division*, 213.

⁹⁹ Cohen, 215.

¹⁰⁰ Ibid.

¹⁰¹ Ibid, 212.

¹⁰² Ibid.

¹⁰³ Ibid, 214.

anti-welfare beliefs. Reagan, like Winthrop and Franklin centuries before him, believed that economic assistance ought to be reserved for those who have no other means of helping themselves—the “deserving poor.” Positive economic rights, in their universal nature, make no distinction between deserving and undeserving classes. As such, Reagan’s opposition to positive economic rights comes as no surprise.

Despite Nixon’s victory, according to Michael A. Cohen, “the post-1968 GOP became the party of Ronald Reagan.” In 1981, Reagan finally ascended to the presidency following a landslide general election victory over Democratic incumbent Jimmy Carter. Sociologist John O’Connor (1998) has characterized Reagan’s 1980 election victory as a “watershed” moment in American history in that it “signaled the end of the New Deal order.”¹⁰⁴ In truth, Reagan took unprecedented action to roll back the welfare state during his two terms in office. O’Connor points to three actions taken by the Reagan administration to support his thesis—the Omnibus Budget Reconciliation Act (OBRA) of 1981, the Social Security Amendments of 1983, and the Family Support Act of 1988—which all significantly curtailed welfare spending.¹⁰⁵ These reform efforts were primarily geared toward moving the “able-bodied poor” off of welfare rolls.¹⁰⁶

Reagan’s most important contribution to welfare was perhaps attitudinal. According to O’Connor, Reagan hastened the end of the post-New Deal antipoverty consensus “through a concerted and relentless critique of big government.”¹⁰⁷ Reagan highlighted cases of welfare abuse, blamed welfare dependence for urban crime and unemployment, and levied racist dog whistles to turn Americans against welfare programs.

¹⁰⁴ John O’Connor, “US Social Welfare Policy: The Reagan Record and Legacy,” *Journal of Social Policy* 27, no. 1 (January 1998), 37-61, <https://doi.org/10.1017/S0047279497005187>.

¹⁰⁵ O’Connor, 39-46.

¹⁰⁶ *Ibid*, 39.

¹⁰⁷ *Ibid*, 38.

One particular example that highlights all three tactics was Reagan's frequent public references during his 1976 and 1980 presidential campaigns to a welfare abuser in Chicago who allegedly had "80 names, 30 addresses, 12 social security cards and is collecting veterans' benefits on four non-existing deceased husbands."¹⁰⁸ According to Reagan, her welfare fraud generated her over \$150,000 in pre-tax income per year. Reagan's anecdotal story of welfare abuse seems to have captivated the public imagination. According to a recent study, media references to the term "welfare queen" more than doubled following Reagan's first mention of the Chicago case in 1976.¹⁰⁹ By 1992, polls indicated that a supermajority of Americans agreed with the statement, "poor people have become too dependent on government assistance programs."¹¹⁰

Following Reagan's back-to-back landslide victories against liberal challengers, and George H.W. Bush's victory over Michael Dukakis in 1988, the Democratic Party shifted to the right to reflect a perceived burgeoning conservative consensus.¹¹¹ 1992 Democratic Presidential candidate Bill Clinton promised to "end welfare as we know it," adopting many of the anti-welfare arguments put forth by Reagan during the prior decade.¹¹² In fact, after Republicans regained control of Congress during the 1994 "Republican Revolution" midterm elections, Bill Clinton worked alongside conservatives like Newt Gingrich to pass welfare reform of his own. The post-Reagan Democratic Party had become decidedly more conservative since Johnson's War on Poverty, and was hardly recognizable from the days of Roosevelt's Second Bill of Rights.

¹⁰⁸ "Narrative Shift: From the War on Poverty to 'Ending Welfare As We Know It,' The Opportunity Agenda, accessed April 7, 2022, <https://www.opportunityagenda.org/shifting-narrative/narrative-shift-war-poverty>.

¹⁰⁹ "Narrative Shift: From the War on Poverty to 'Ending Welfare As We Know It,' The Opportunity Agenda, accessed April 7, 2022, <https://www.opportunityagenda.org/shifting-narrative/narrative-shift-war-poverty>.

¹¹⁰ Ibid.

¹¹¹ John O'Connor, "US Social Welfare Policy: The Reagan Record and Legacy," 57.

¹¹² Mary Pilon, "How Bill Clinton's Welfare Reform Changed America," accessed April 7, 2022, <https://www.history.com/news/clinton-1990s-welfare-reform-facts>.

Advocacy for positive economic rights had all but disappeared from mainstream political discourse.

Part III: Contemporary Revival of Positive Economic Rights Discourse

Though positive economic rights began to recede to the fringes of American political discourse following the rise of conservatism during the late 1960s, progressive ideas, including positive economic rights, have made a resurgence in recent years. In truth, the Democratic Party platforms throughout the “Conservative Era” which I have proposed continued to affirm at least nominal support for the rights to healthcare and collective bargaining, with the exception of the 1996 and 2000 platforms which made no such commitments.^{113,114,115,116} Other positive economic rights outlined by Roosevelt, such as housing, employment, and “an adequate wage and decent living” were conspicuously absent throughout the period after having appeared in Democratic platforms during the 1930s and 1940s.^{117,118}

In 2015, Vermont Senator Bernie Sanders announced his presidential candidacy in a speech that invoked progressive themes and long-standing left-wing policy commitments. Sanders promised to guarantee health care as a right by implementing single-payer health insurance.¹¹⁹ Channeling Roosevelt, Sanders warned that the political influence of billionaires had turned America into an oligarchy.¹²⁰ Sanders promised to raise the minimum wage to \$15 per hour and put millions of unemployed Americans to work rebuilding the nation’s infrastructure. Though Sanders ultimately lost the 2016 Democratic nomination to Hillary Clinton, his

¹¹³ “1988 Democratic Party Platform,” The American Presidency Project, accessed April 7, 2022, <https://www.presidency.ucsb.edu/documents/1988-democratic-party-platform>.

¹¹⁴ “1992 Democratic Party Platform,” The American Presidency Project, accessed April 7, 2022, <https://www.presidency.ucsb.edu/documents/1992-democratic-party-platform>.

¹¹⁵ “1996 Democratic Party Platform,” The American Presidency Project, accessed April 7, 2022, <https://www.presidency.ucsb.edu/documents/1996-democratic-party-platform>.

¹¹⁶ “2004 Democratic Party Platform,” The American Presidency Project, accessed April 7, 2022, <https://www.presidency.ucsb.edu/documents/2004-democratic-party-platform>.

¹¹⁷ “1936 Democratic Party Platform,” The American Presidency Project, accessed April 7, 2022, <https://www.presidency.ucsb.edu/documents/1936-democratic-party-platform>.

¹¹⁸ “1948 Democratic Party Platform,” The American Presidency Project, accessed April 7, 2022, <https://www.presidency.ucsb.edu/documents/1948-democratic-party-platform>.

¹¹⁹ Ezra Klein, “Read Bernie Sanders Populist, Policy-Heavy Speech Kicking off His Campaign,” Vox, May 26, 2015, <https://www.vox.com/2015/5/26/8662903/bernie-sanders-full-text-speech-presidential-campaign>.

¹²⁰ Ibid.

candidacy inspired large numbers of progressive candidates to run for office in subsequent elections.¹²¹ Many of these post-Sanders progressives were successful, including Alexandria Ocasio-Cortez, who ousted ten-term incumbent Democrat Joe Crowley in New York’s 14th Congressional district during the 2018 midterm elections.

Sanders ran for president again in 2020, briefly appearing to be the frontrunner in a crowded field of Democrats. In his 2020 campaign, Sanders doubled down on positive rights discourse. Invoking Roosevelt explicitly, Sanders called for a “21st Century Economic Bill of Rights” based on the notion that “there is no freedom without economic freedom.”¹²² Sanders’ bill of economic rights largely consisted of the same rights articulated by Franklin Roosevelt during his 1944 State of the Union Address—the right to health care, to a decent paying job, to affordable housing, and a secure retirement.¹²³ However, Sanders introduced two new positive rights—the rights to a complete education and the right to a clean environment. Though Roosevelt believed in the right to education, it is hardly likely he intended this to include postsecondary education. Sanders, on the other hand, believes that true freedom in the twenty-first century also requires affordable access to college and vocational training.

Sanders is not the only progressive to have recently invoked Roosevelt in their advocacy for positive economic rights. Alexandria Ocasio-Cortez claimed that her Green New Deal proposal would “build on FDR’s Second Bill of Rights” by providing jobs, health care, and housing to millions of Americans.¹²⁴ Although Sanders’ 2020 campaign was unsuccessful, he, along with progressive activists, leveraged their political power to push the Democratic party

¹²¹ Melissa Gomez, “Inspired by Bernie Sanders: Young Progressives are Headed to a Political Seat Near You,” Los Angeles Times, April 13, 2020,

<https://www.latimes.com/politics/story/2020-04-13/bernie-sanders-legacy-progressive-movement>.

¹²² “21st Century Economic Bill of Rights,” Bernie Sanders Campaign, accessed April 8, 2022, <https://berniesanders.com/21st-century-economic-bill-of-rights/>.

¹²³ Ibid.

¹²⁴ Matthew Rosza, “What Ocasio-Cortez’s Green New Deal can Learn From Franklin D. Roosevelt’s New Deal,” Salon, March 4, 2019, <https://www.salon.com/2019/03/04/what-aocs-green-new-deal-can-learn-from-fdrs-new-deal/>.

platform to the left. The 2020 Democratic platform was astoundingly progressive; for example, it was the first since the Roosevelt administration to characterize housing as a right.^{125,126}

The prominence of Bernie Sanders and other newly-elected progressives tracks with a general leftward shift in American public opinion on the question of positive rights. For example, a 2014 Gallup poll revealed that only 45% of Americans believed that health care was a right, while a majority of 52% opposed that characterization.¹²⁷ In 2018, a Pew Research poll showed that 60% of Americans believed that it was the government's responsibility to provide health coverage for the population, with those opposed to universal healthcare now in the minority.¹²⁸

¹²⁵ "1944 Democratic Party Platform," The American Presidency Project, accessed April 8, 2022, <https://www.presidency.ucsb.edu/documents/1948-democratic-party-platform>.

¹²⁶ "2020 Democratic Party Platform," The Democratic Party, Accessed April 8, 2022, <https://cdn.factcheck.org/UploadedFiles/2020-Democratic-Party-Platform.pdf>, 14.

¹²⁷ Thomas B. Edsall, "Do Americans Believe That Healthcare is a Right?," The New York Times, April 15, 2015, <https://pnhp.org/news/do-americans-believe-that-health-care-is-a-right/>.

¹²⁸ Jocelyn Kiley, "60% in US Say Health Care Coverage is Government's Responsibility," Pew Research, October 3, 2018, <https://www.pewresearch.org/fact-tank/2018/10/03/most-continue-to-say-ensuring-health-care-coverage-is-governments-responsibility/>.

CONCLUSION

This thesis has endeavored to trace the historical development of the concept of positive economic rights in American political thought. I have argued that positive economic rights originated in the New Deal Era; Franklin D. Roosevelt and his contemporaries assimilated the long-standing belief in state duties to provide for the poor into a rights framework. Roosevelt argued that changing social conditions introduced new threats to life, liberty, and the pursuit of happiness which could only be ameliorated through positive state action. According to Roosevelt, a merely negative Bill of Rights was no longer sufficient to deliver equality of opportunity or to safeguard democracy. Instead, rights needed to be reconceptualized in such a way that would liberate the modern individual from economic and social constraints which precluded their full participation in democratic society.

The concept of universal economic entitlements is largely incompatible with the widespread belief that assistance should be reserved for the ‘deserving poor.’ A conservative backlash against the Great Society and Civil Rights Movement eroded the post-New Deal consensus that government should endeavor to provide for the poor regardless of circumstance. During the Reagan administration, the social welfare state retrenched and public attitudes shifted markedly to the right. Reagan’s welfare reforms aimed predominantly at removing the ‘undeserving poor’ from welfare rolls. Ronald Reagan also weaponized racist dog-whistles as a means of undercutting support for welfare programs. By the 1990s, even the Democratic Party vowed to “end welfare as we know it.”

In recent years, progressives have articulated support for positive economic rights. Many have invoked Franklin Roosevelt directly, which further supports the notion that positive economic rights are by-and-large an ideological innovation of the New Deal Era.

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