

Social Protection: Rethinking Rights and Duties

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Summary. — Social protection research and policy often hold unbalanced views on the relationship between rights and duties, thereby segregating “the poor” from “the non-poor”. This has implications for solidarity and for the sustainability of social protection systems. By applying citizenship theories to social protection, we show that duties need not be carried solely by the state or forced upon beneficiaries as conditional requirements. Rather, as citizens are both productive and vulnerable, all citizens fulfill duties and hold rights, although their contributions to and needs for social protection vary. Sustainable social protection policies thus enhance citizens’ agency as both rights-holders and duty-bearers.

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1. INTRODUCTION

While liberal theory has always recognized that rights carry correlative duties, classical liberal theory treated rights as unconditional and hence prior to duties. Individuals enjoyed rights by virtue of their citizenship [...]. This has been challenged in recent times by neo-liberal thinkers for whom citizens must “earn” their rights and for whom, therefore, duties precede rights

[Kabeer, 2005, p. 2]

In the political landscape, social protection is located at an intersection where differing views on the relationship between rights and duties meet. In this paper, we review some of these theoretical perspectives and their application in the sphere of social protection in developing country settings.

In the classification of rights, social protection would typically be classified as a social right. Social rights are “public interventions into private spheres to support citizens’ claims to economic subsistence and social existence [...], social rights range from distributive rights with money payments to enabling and opportunity rights with many personal services” (Janoski, 1998, p. 32). The relationship between rights and duties is particularly interesting when considering social rights. Whereas political and civil rights mostly require states to protect such rights and citizens not to violate the rights of others, social rights—to be meaningful—require active promotion and implementation by a range of formal and informal duty-bearers. The nature of social rights is that they provide protection in times of vulnerability. Beneficiaries of social rights are often in a position of dependence upon others to provide financially or in kind for transfers, services, and care (Janoski, 1998, p. 43). Social care is “guided as much by relations of social solidarity, obligations, altruism and reciprocity as by market exchange, preference, choice and economic gain” (Yeates, 2011, p. 1110). Thus, solidarity features prominently as a backdrop for the elaboration of an intricate relationship between rights and duties, particularly in an area such as social protection. It provides a unifying premise for the promotion of social rights among citizens, to provide and care in times of ability in order to enjoy in times of vulnerability, thus avoiding a stark separation between rights-holders and duty-bearers.

The literature and debates on social protection in developing countries—focusing primarily on social transfers and benefits, although also including social security—fall roughly within

the polarized distinction cited in the above quotation. Either social protection is viewed in a neo-liberal (welfare contractual) manner with an emphasis on the fulfillment of duties, or social protection is promoted as a right.¹ However, both approaches tend to make a seemingly impermeable distinction between the poor and the non-poor.² This is problematic for at least two reasons. First, it supports a limited perspective on “the poor”. Either poor people are regarded as passive claimants that must be forced to fulfill conditions in return for a benefit (neo-liberal/welfare contractual views) or as mere rights-holders without acknowledgment of their possible contributions as productive citizens (rights-based approaches). Secondly, if promotion of social rights, and the expansion of social protection policies, is the goal, then solidarity among citizens is important. However, policies that emphasize a distinction between the poor and the non-poor are more prone to carry stigma, social unacceptability and therefore hold less political appeal. Consequently, more encompassing social protection policies are more likely to build a stronger sense of solidarity and to be more politically sustainable (Ellis, 2012; Nelson, 2005).

We are sympathetic to the promotion of social rights and the expansion of social protection. However, since we regard solidarity in citizenship as important for such goals, we also note the need to emphasize what all citizens have in common both as rights-holders and as duty-bearers. Analytically, we assess how citizens (including poor citizens) actually honor many types of duties, how these are related to rights, and we look at ways to respond to the structural constraints that obstruct citizens’ ability to be both rights-holders and duty-bearers.

We go about our enquiry in the following way. First, we discuss different views of rights and duties respectively within the human rights framework, the capability approach (as an extension of the rights-based literature), and within social con-

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tract theory. These are all approaches that have been applied to social protection theory and practice. In order to comprehensively and sustainably accommodate the complexities of social policy, such as social protection in developing countries, we draw on useful aspects from each of these approaches. We seek to move further toward a framework which accommodates rights and duties as inter-related but also independent entities, and which allocates rights and duties both on a personal and on a collective basis. To this end, we draw on citizenship literature that links duties to rights through the mechanism of generalized exchange. Through this framework, we demonstrate how balanced views on rights and duties (and thus a blurred distinction between poor and non-poor) have strong implications for the political sustainability of social protection. We then discuss the citizenship framework and its implication in more detail. We show how many duties are honored by poor and non-poor citizens alike, but also how there are certain structural barriers that limit the ability of those living in conditions of social and economic disadvantage to be duty-bearers. We further make the point that, rather than categorizing citizens as either poor or not, it is more useful to distinguish between degrees of agency, as citizens have varying moments and degrees of capability and vulnerability. In the penultimate section, we elaborate on possible policy implications of our framework, before concluding.

2. VIEWS ON THE POOR AS RIGHTS-HOLDERS AND DUTY-BEARERS

(a) *Human rights approach*

Of central importance to a rights-based approach is seeing individuals as “rights-holders” and states as “duty-bearers”
[Piron, 2004, p. 6]

Human rights activism and rights-based approaches to development, and to social protection in particular, have been vital in shaping human development strategies that seek to advance the position of the poor and marginalized. Current thinking and practice not only focus on the material welfare of the poor but also on their freedoms and rights (Alexander, 2004; Sepulveda & Nyst, 2012). These contributions are indispensable. However, while rights are emphasized, little attention is paid to the role of the obligations of the poor, and other citizens of the state. The human rights movement has always sought to redress unequal power relations. The emphasis on individual rights and collective obligations (to fulfill those rights) represents a profound vision for a more equitable redistribution of power and resources (van Ginneken, 2011). Every human being, simply by virtue of being human, is a holder of rights and governments have the responsibility to respect, promote, protect, and fulfill such rights. In the human rights approach, if individuals are at all seen to hold duties, characteristically these relate to respecting and not violating rights of others (i.e. negative rights) and encouraging governments to uphold and implement rights (Nickel, 1987, p. 42). The rights-based approach particularly involves “enabling and empowering those not enjoying their economic, social, and cultural rights to claim their rights” (O’Neill, 2003). Compelled by a mandate to protect and empower the vulnerable, voiceless, and marginalized, rights approaches to social protection have actively promoted the individual rights of the poor to social protection and the allocation of obligations to the state and other powerful global actors such as donors, intergovernmental organizations, non-governmental institutions, and transnational corpora-

tions (TNCs) (Cornwall & Nyamu-Musembi, 2005; Pettit & Wheeler, 2005; van Ginneken, 2011). In the field of social protection, it is seen as essential that (poor) citizens are informed of their rights and entitlements and that they develop capabilities to claim them, while the state is seen as the agent delivering on its obligation to provide social and economic security (Gaunt & Kabeer, 2009; Piron, 2004, p. 16–17).

The strong rights focus can also be seen as a response to the negative views of the poor often underlying the neo-liberal perspective. Critics of rights-based social policies generally argue that people who receive social assistance consequently feel relieved of responsibility for their own actions (see Rothstein, 1998, p. 24). The poor are blamed for their misfortune and portrayed as lacking a sense of responsibility, which is the justification for attaching conditions to benefits. In the field of social policy, social obligations have become more pronounced both in the North (Kvist & Jæger, 2004) and with the introduction of conditional grants systems also in the Global South. In some contexts, conditionalities attached to social assistance schemes, represent attempts to provide institutional legitimacy to social change. For example, women who face a strong socio-cultural bias against female education may be empowered to send their daughters to school (Adato & Bassett, 2008). However, in political environments with prevailing neo-liberal views, conditions often appear as punitive impositions on the poor “because the assumption is that they, unlike the better-off, will make no contributions to society unless coerced to do so” (Murray & Pateman, 2012). Human rights proponents argue that obligations should be done away with as social welfare is a right in itself and therefore need not be “earned”.

Still, the asymmetrical distribution of rights and duties, and the one-sided view of citizens as rights-holders but not necessarily as duty-bearers are problematic. First, the tendency to see the state as the primary (often only) duty-bearer ignores the fact that states are ultimately representatives of citizens; and often the more resourceful and influential citizens dominate policy making (Pateman & Mills, 2007) and they may not accept the correlated duties needed to meet rights-based demands.

Secondly, and more importantly, there is a danger that the emphasis on the poor as rights-holders actually buttresses the views that were intended to be avoided: that the poor are passive claimants unwilling to make an effort. Often, the promotion of social protection as an entitlement that the poor can and should claim, gives cause to disapproving political reactions. Stigmatizing views which seek to make distinctions between deserving and undeserving beneficiaries, are often supported by anecdotal testimonies captured by the media, but rarely substantiated by scientific evidence (Sepulveda, 2014). Even though social protection policies—such as social grants—certainly improve the position of the poor, negative perspectives of grant recipients are persistent and popular discourses that the poor are passive recipients unwilling to contribute to the greater good flourish. Such views are, for instance, widespread in South Africa, where, as an example, the previous President Thabo Mbeki argued that people should not “think it is sufficient merely to hold out their hands and receive a handout [grant], but [should] understand that all of us, as South Africans, have a shared responsibility to attend to the development of the country” (Marais, 2011, p. 253). With such views, if they become the dominant discourse, the sustainability—let alone possible expansion—of social protection policies are at risk. In fact, social policies tend to be more generous in contexts where coverage is wide (not targeted at the poor), as such policies have broader social appeal

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