

# TO HEAL HUMANKIND

*The Right to Health in History*

ADAM GAFFNEY



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The “human right to healthcare” has had a remarkable rise. It is found in numerous international treaties and national constitutions, it is litigated in courtrooms across the globe, it is increasingly the subject of study by scholars across a range of disciplines, and—perhaps most importantly—it serves as an inspiring rallying cry for health justice activists throughout the world. However, though increasingly accepted as a principle, the historical roots of this right remain largely unexplored. *To Heal Humankind: The Right to Health in History* fills that gap, combining a sweeping historical scope and interdisciplinary synthesis. Beginning with the Age of Antiquity and extending to the Age of Trump, it analyzes how healthcare has been conceived and provided as both a right and a commodity over time and space, examining the key historical and political junctures when the right to healthcare was widened or diminished in nations around the globe.

*To Heal Humankind* will prove indispensable for all those interested in human rights, the history of public health, and the future of healthcare.

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## The Right to Health in History

Adam Gaffney

 **Routledge**  
Taylor & Francis Group  
NEW YORK AND LONDON

First published 2018  
by Routledge  
711 Third Avenue, New York, NY 10017

and by Routledge  
2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN

*Routledge is an imprint of the Taylor & Francis Group, an informa business*

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*Library of Congress Cataloging in Publication Data*  
A catalog record for this book has been requested

ISBN: 978-1-138-06720-2 (hbk)  
ISBN: 978-1-138-06722-6 (pbk)  
ISBN: 978-1-315-15843-3 (ebk)

Typeset in Minion  
by Florence Production Ltd, Stoodleigh, Devon, UK

**This book is dedicated to my mother and father,  
who taught me how to think, and who encouraged me to act.**



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# Acknowledgments

This book would have been little more than a pipe dream were it not for the tremendous encouragement and assistance I received from friends, family, colleagues, and mentors. My parents Frederick and Aileen remain steadfast in their support of my life and my work; my mother also helpfully read an early draft. My brother Nicholas has provided crucial support and encouragement, which I especially needed during the sometimes difficult years when this book was written. This book has no doubt been shaped intellectually by countless hours of discussion with my lifelong friend Michael Leonard, who read much of an intermediate-stage draft and provided very useful feedback. Ever since I approached him out of the blue at a conference, Howard Waitzkin has given his time and support selflessly and generously, including reviewing the entire nearly-final manuscript. Without Howard, the book would never have seen the light of day, and the example of his life and work provided much inspiration. Dean Birkenkamp has been thoughtful, encouraging, and unfailingly patient throughout the process of writing, and I owe him a debt of gratitude. My heroes, professors David Himmelstein and Steffie Woolhandler, provided crucial encouragement and opportunities for me in recent years; they also critically reviewed much of an advance draft. My interest in healthcare rights was very much propelled by my work in healthcare advocacy, and for this I am indebted to the example and comradeship of many *Physicians for a National Health Program* (PNHP) activists, including Oli Fein, Gordy Schiff, Mardge Cohen, Martha Livingston, Joanne Landy, and many others. I took two classes with Greg Grandin as an undergraduate, and have been learning from him ever since; Greg continues to support and encourage me, and also kindly read portions of the manuscript. My good friend, the admirable Jon Cohn, took on the task of editing a late version of this manuscript, and I remain in his debt. Even though I contacted both of them essentially out of the blue, historians Caroline Wazer and Calloway Scott generously reviewed parts of Chapter 1, providing very helpful comments. My uncle and scholar Grahame Shane provided insight at a very early stage in this book's conception, and he critically reviewed portions of an early draft. David Pomerico, Jeffrey Shyu, and Joe Duignan also read portions of drafts and provided useful feedback. Barron Lerner provided important guidance. Many others who cannot all be listed here provided inspiration, encouragement, and support over the years during which this book was written.

I should note that this is a work of synthesis and analysis, with a broad scope over both time and space, and as such it mainly relies on secondary sources. I therefore owe an enormous debt to the scholars and writers whose original work I rely on, discuss, and cite throughout. I apologize in advance if I have misconstrued any of the ideas or arguments of others, and more broadly for any errors that may have found their way into this book. Any such errors are mine alone.

Finally, all proceeds from this book will go to *Physicians for a National Health Program*, an organization that I am proud to be a part of, and which is doing much to keep the light of universal healthcare alive in the United States.

# Introduction

The “human right to healthcare” has had an astonishing rise. Its history, as it is typically told, begins with the end of the Second World War. In 1946, it received one of its earliest articulations in the constitution of the newly formed World Health Organization: “The enjoyment of the highest attainable standard of health,” its oft-quoted preamble boldly proclaims, “is one of the fundamental rights of every human being . . .”<sup>1</sup> Two years later, the United Nations adopted the Universal Declaration of Human Rights, which somewhat less grandly included a right to “medical care” among the socioeconomic goods now considered the natural birthright of all humankind. In the decades since, in some form or another, the right to health (and to healthcare) has found a place in a wide range of international treaties and national constitutions.<sup>2</sup> It has served as a compelling rallying cry for activists struggling for healthcare justice around the world, and in recent days as a more formulaic talking point for politicians seeking health system reform.

But where did this right come from, and what does it mean? Whereas the historical roots of the “human right” have been the subject of much scholarship, the “right to health” (and, more specifically, to healthcare, the predominant concern of this book) has been largely under-historicized.<sup>3</sup> This work is intended as a corrective, providing an early examination and analysis of the historical roots of the right to healthcare. It begins not—as is typical—with the post-Second World War rights declarations, but instead with antiquity, although it extends to the present day. (Its geographical scope is much more confined, with a regrettable emphasis on Europe and the United States, for several reasons.)<sup>4</sup> It aims to trace how ideas about socioeconomic rights—together with ideas and practices around the provision of “universal” healthcare—evolved from this early era to the present day. It seeks not to provide a comprehensive history of the right to healthcare, but instead—through an analysis of critical historical junctures—to begin an exploration of the origins, the meaning, and the relevance of this powerful and egalitarian aspiration for us today. An aspiration, it warrants mentioning, of great and growing potential benefit for billions around the globe.

But first, is there any merit in turning back earlier than the postwar era, when the first major “human rights” documents began to appear, and when the history of the right to healthcare usually begins? In his pathbreaking book *The Last Utopia: Human Rights in History*, scholar Samuel Moyn counters reams of scholarship that

pinpoint the roots of human rights in this or that philosophical school or historical period—ranging from antiquity to the Enlightenment—and argues in contrarian fashion that the “human right” did not really emerge in an impactful sense until as recently as the 1970s. An essential feature of modern “human rights,” in his line of argument, is that they trump the laws of the nation-state; in contrast, earlier rights (such as the “rights of man” of the Enlightenment) were citizen rights, to be realized through the power of the state, not over or above it. Thus, he contends, while these earlier rights were a form of “rights,” they were not “human rights” in the manner understood today, that is, as constraints on governments. The human right was thus a fundamentally new concept, serving a distinct political purpose in a postcolonial age when the promise of an older utopian paradigm—that of democratic socialism—had begun to fade on both sides of the Iron Curtain.<sup>5</sup>

Yet though this argument may be persuasive from the perspective of the modern human rights discourse, it is rather problematic when turning to the specific case of the right to healthcare. The right to healthcare is—inherently—a social right that must be realized at the state level.<sup>6</sup> It is one of the social rights—together with housing and education—that T.H. Marshall, in his post-Second World War classic treatise *Citizenship and Social Class*, argued was remaking the meaning of citizenship in the twentieth century, in a day and age when “human rights” talk was still in its infancy.<sup>7</sup> And indeed, whereas international instruments can be wielded to protect human rights on the supranational level—international tribunals can punish human rights transgressors, international troops can enforce treaties, and so forth—states ultimately create rights to healthcare *through the establishment of health systems*. Health systems that universally provide access to healthcare as a public good—particularly if this access is (largely or entirely) *free* and (to the extent possible) *equitable*—produce universal social rights to healthcare, regardless of whether this is conceived or achieved within a human rights paradigm. The history of the right to healthcare, in other words, is inextricably bound up with the history of healthcare universalism.<sup>8</sup> The “right to healthcare” thus has a history of its own, connected to but also independent from the “human right” considered more broadly.

This book thus traces the story of the “right” (and, later, the socioeconomic right) from its beginnings in the natural law and natural rights tradition of the ancient world, the Middle Ages, and (later) the Enlightenment, through the ages of revolution and of industry, and ultimately to the contemporary era. It interweaves into this history the story of the “universalist-medical ethos,” which is to say, instances and movements wherein individuals, groups, or states proposed or endeavored to make medical care universal. This is the story of early medical charity and the advent of the hospital, of the ethics of healthcare and the social duties of the healthcare provider, and of proposals and programs for the implementation of universal healthcare systems. The relationship between these developments and the concept of the socioeconomic right is admittedly complex and contradictory. Ultimately, however, the development of health systems should be seen as central to the idea and practice of treating healthcare as a right,

even when ideas about “rights” or “human rights” are far from the ideological or rhetorical core of such systems.

In fact, the temporal link between the *discourse* and the *praxis* of healthcare rights is rather weak. As this book will explore, the creation of some novel universal health systems in the postwar era—like that of the National Health Service (NHS) in Britain—was accomplished without much talk about the “right” to healthcare. Yet the NHS nonetheless created, in a very concrete and meaningful sense, a legal right to healthcare. And ironically, even as the human right to health movement got underway in the 1980s and 1990s, rights to healthcare were, in a practical sense, under assault in many places, a topic that will be explored in the final chapter. For instance, in the developing world, international financial organizations like the World Bank were wielding their considerable political and economic muscle to pressure low-income countries—particularly in Africa—to impose charges (“user fees”) on the poor for the use of health services, to the great detriment of the health of these populations—indeed, at the cost of countless lives lost.<sup>9</sup> Meanwhile, nations in both the developing and developed world were taking steps towards health system privatization in ways that sometimes threatened the right to healthcare for their citizens.

Thus, whereas the human right to healthcare is indeed a recent rhetorical convention and ethical notion, ideas and practices around the right to healthcare—that is, around healthcare universalism—stretch back considerably further. Yet a conceptualization of a “right to healthcare” developed over time in tension with the far more typical practice of providing healthcare as a commodity or consumer good. In some moments and places, healthcare was conceived of and provided by right on the basis of needs; more typically, it has been a service sold on the basis of means, like other commodities.

The first aim of this book then is to trace what might be termed a healthcare “rights-commodity dialectic” through history, an approach colored by the idea of welfare “decommodification” of sociologist Gøsta Esping-Andersen. Esping-Andersen proposed a landmark (though highly criticized<sup>10</sup>) typology of the “three worlds” of welfare under capitalism. The emergence of capitalism, he noted, led to an almost complete individual dependence on the “cash nexus” for survival. This was met by qualitatively different welfare responses among various advanced capitalist nations, which he clustered into liberal, conservative, and social-democratic regimes. Under the social-democratic response, welfare benefits undergo what he called “de-commodification,” which “occurs when a service is rendered as a matter of right, and when a person can maintain a livelihood without reliance on the market.”<sup>11</sup> Healthcare “decommodification” is contextualized in this book in a similar light: it occurs with the creation of a social right to access to healthcare that is *independent of one’s market position*,<sup>12</sup> and through which individuals can obtain equitable health care *without being forced to enter the cash nexus*. Thus, to the extent that these two configurations of healthcare—as social right and as commodity—are oppositional and exclusive, it is reasonable to speak of a healthcare right-commodity dialectic.

The second aim of the book is to examine *how* healthcare rights are realized. Where and why rights to healthcare goods were fought for—and achieved—relates little to changing interpretations of rights and more to political struggle and economic change. Though ideas about equality have existed since antiquity, constituencies strong enough to challenge social, economic, and, indeed, healthcare inequalities have usually been too scattered over time and space to challenge the status quo in a meaningful way. Potent proposals for social welfare, including healthcare, most often arose when such constituencies became sufficiently mobilized to at least be perceived as a credible threat: examples in Europe include (among others) the eras of the English Civil War, the French Revolution, the Revolutions of 1848, and the years following the Second World War; in the United States, such periods include the New Deal Era and the Civil Rights era; and in the developing world, as we will see, revolutionary moments during the post-colonial period were most critical (to generalize broadly). The emergence of such political challenges, in turn, can only be understood in the setting of the innovations, disruptions, and profound strains imposed by an economic system that evolved not gradually, but in great fits and starts, whether that be the advent of industrial capitalism in the nineteenth century or of economic crises like the Great Depression in the twentieth.

Similarly, the successes and the failures in the achievement of the human right to healthcare in the twenty-first century—the healthcare right-commodity dialectic today—have to be understood in the context of the latest stage of global economic history, what is often called “neoliberalism.” The mobilization of corporate power in the past few decades has often served to substantially favor the commodification of healthcare services throughout the globe, to constrain the vision of universal healthcare in both the developing and developed world, and to restrict the potential of healthcare reform in the United States. Still, the story is by no means all negative: during these very same decades, there have been activist movements and even major political achievements that have helped enhance the right to healthcare, in ways small and large, in countries throughout the world.

The fate of the “right to healthcare”—whether it will rise to a universal reality, remain a privilege for some classes or some nations, or shrink to little more than pleasant but irrelevant rhetoric—will, in the final analysis, depend on the outcome of such struggles.

## Notes

- 1 World Health Organization, *Constitution of the World Health Organization*, 1948, accessed March 8, 2015, [www.Who.Int/Governance/Eb/Who\\_Constitution\\_En.Pdf](http://www.Who.Int/Governance/Eb/Who_Constitution_En.Pdf).
- 2 Two key works on the history of the right to health in international law are: John Tobin, *The Right to Health in International Law* (Oxford: Oxford University Press, 2012) and Brigit C.A. Toebes, *The Right to Health as a Human Right in International Law* (Antwerpen: Intersentia/Hart, 1999).
- 3 An early chapter in Tobin’s volume is an exception to this. Tobin’s chapter is notable in beginning before the Second World War era, and in drawing connections between ideas of public health and of human rights. Tarantola, in contrast, provides a cursory look at the right

to health which begins in the post-Second World War era. Tobin, *The Right to Health in International Law*, 14–43; Daniel Tarantola, “A Perspective on the History of Health and Human Rights: From the Cold War to the Gold War,” *Journal of Public Health Policy* 29, no. 1 (2008): 42–53.

- 4 Although the first chapter and the last two chapters have a global scope, the other chapters concern events only in Europe and the US. This regrettable Western-centrism reflects the necessity of making choices as well as the limitations of the author. In particular, the complete exclusion of indigenous healing traditions, whether in America or Africa, is a significant deficiency. Additionally, it is worth mentioning that this is a short book about a large issue, and is by no means intended to be complete or authoritative. It is instead a synthesis and an analysis of selected moments in selected places, with the aim of beginning a discussion about the rise and emergence of the human right to healthcare in history. Although I turn to some of the most important documents, I mainly rely on a large number of scholars and writers, whose work I discuss and cite throughout. Finally, the overall approach of this book can reasonably be critiqued as idiosyncratic, and others might reasonably trace the right to health in very different ways, with either a narrower scope (e.g. focusing on the modern *human* right to health movement) or a broader one (e.g. looking at the practice of healthcare in cultures throughout the globe).
- 5 Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Belknap Press of Harvard University Press, 2010).
- 6 Farmer notes that NGOs working in low-income nations must “learn how to strengthen the public sector, since only governments can guarantee their citizens’ rights.” Paul Farmer, “Challenging Orthodoxies: The Road Ahead for Health and Human Rights,” *Health and Human Rights* 10, no. 1 (2008): 10.
- 7 T. H. Marshall, “Citizenship and Social Class,” in *Citizenship and Social Class* (London: Pluto Press, 1992).
- 8 Hoffman’s outstanding book, which I cite many times in this book, similarly deals with the evolution of healthcare “rights” outside of the narrow spectrum of the human rights discourse/paradigm. Beatrix Rebecca Hoffman, *Health Care for Some: Rights and Rationing in the United States since 1930* (Chicago: University of Chicago Press, 2012).
- 9 Rick Rowden, “The Ghosts of User Fees Past: Exploring Accountability for Victims of a 30-Year Economic Policy Mistake,” *Health and Human Rights* 15, no. 1 (2013): 175–85.
- 10 Bambra puts the criticisms of Esping-Andersen’s work in three categories: theoretical, methodological, and empirical. Clare Bambra, “Going Beyond the Three Worlds of Welfare Capitalism: Regime Theory and Public Health Research,” *Journal of Epidemiology and Community Health* 61, no. 12: 1098–102.
- 11 Gösta Esping-Andersen, *The Three Worlds of Welfare Capitalism* (Princeton, N.J.: Princeton University Press, 1990), 21–2.
- 12 Bambra employs a very similar definition. Clare Bambra, “Cash Versus Services: ‘Worlds of Welfare’ and the Decommodification of Cash Benefits and Health Care Services,” *Journal of Social Policy* 34, no. 02 (2005): 201.

# 1

## Health, Rights, and Welfare Antiquity to the Early Modern Era

“If we believe,” Aristotle is quoted as saying, “men have any personal rights at all as human beings, they have an absolute right to such a measure of good health as society, and society alone is able to give them.”<sup>1</sup> Such a statement implies that not only human rights—but also the *human right to health*—can be traced back to the fourth century BCE. It suggests an impressive continuity of the human right to health throughout history, and might be thought of as providing an ancient philosophical grounding for the work of health rights activists today.

Alas—perhaps not surprisingly—these are not Aristotle’s words. A scholar who investigated this oft-cited quotation’s origins was unable to find any semblance of it in Aristotle’s corpus.<sup>2</sup> Its first known use was apparently in a speech given by Robert F. Kennedy (and from where he got it is unclear), and it subsequently appeared in print in a 1979 book dealing with the right to health.<sup>3</sup> It then made its way forward to the present, periodically appearing in articles and books. Its continued life speaks to an understandable desire to legitimize an idea by imbuing it with the authority and prestige of the past. But it also shows that the temptation to perceive a chain of historical continuity for an idea—especially an idea one believes in or struggles for—is strong.

Although recognizing the real perils of this temptation, this chapter nonetheless begins in antiquity. The point in turning to the distant past is not to “find” some predecessor to modern ideas about socioeconomic rights to goods like healthcare, but instead to trace the twists and turns of how healthcare was produced, provided, and perceived along a rights-commodity divide. This is not so much the history of the right to health, as its prehistory. But it is a rich and complex prehistory. Although an explicit conceptualization of a “right to health” did not emerge until the twentieth century, ideas about “natural rights” evolved over the centuries, and (arguably) came to include one *socioeconomic* right of the poor by the High Middle Ages. Additionally, a discourse and a practice around the notion of providing healthcare to the excluded and marginalized—a “universalist-medical ethos”—emerged in parallel to these philosophical developments. Indeed, by the early modern period, some writers even explicitly called for the state provision of healthcare to the poor. Though no doubt quite removed from the explicit declaration of social and economic rights of the post-Second World War era, these developments are crucial early moments in the larger story of the right to

healthcare. They are the ambiguous and contradictory beginnings of a long story of what seems to be a diffusely identifiable human impulse: the delivery of healthcare to every individual regardless of economic means.

### Rights and Welfare in the Ancient World

When do human rights begin? The debate, no doubt, is a thorny one, and depends upon whether we are thinking of human rights as a philosophical idea, a basic moral concept, or a particular pair of words in the English language. Some, for instance, assert that in the Western tradition, a common thread connects modern ideas of human rights to earlier concepts stretching back to the ancient world. Before the era of “human rights,” there was the “rights of man” discourse of the Enlightenment. And before that, there was a discourse around “natural rights” and “natural law” during the Middle Ages and antiquity. Legal scholar Hersch Lauterpacht argued that this long intellectual heritage provided crucial stimulation for the struggle for international human rights of the mid-twentieth century,<sup>4</sup> and the philosopher Ernest Cassirer argued that the “rights of man” of the Enlightenment had its intellectual roots in the natural law theory that emerged in early modern Europe.<sup>5</sup>

Yet the “natural law” of antiquity (or, for that matter, of the early modern period) was starkly different from modern-day “human rights.”<sup>6</sup> As the classicist Moses Finley has noted with some justification, the ancient Greeks and Romans not only lacked, but “would have been appalled by,” our notion of rights.<sup>7</sup> In Plato’s *Gorgias*, for instance, the sophist Callicles uses “natural law” (possibly the earliest known use of the term) to mean that, in nature, the mighty deservedly dominate the meek.<sup>8</sup> Moreover, Plato and Aristotle do not seem to be particularly concerned with “rights,” whether political or socioeconomic or otherwise. The meaning of the Greek words doesn’t quite match up, it has been noted, while an emphasis on individual human liberty, often regarded as a necessary precursor to moral rights, was not recognized.<sup>9</sup> For example, although Plato’s Socrates disagrees with Thrasymachus’s “might makes right” argument in the *Republic*, he does so by finding true justice in a rigidly stratified, dystopic republic.<sup>10</sup>

Some scholars have contended, however, that Aristotle’s idea of justice in his *Politics* “entails a theory of rights” (though lacking a single equivalent word or phrase to describe them), and that these “nascent rights”—mainly political rights owed *only* to the citizens of the city-state—amounted to the “historical seed” from which natural rights would later emerge.<sup>11</sup> Others, in contrast, have seen no substantial role for rights in the overall political theory of Aristotle.<sup>12</sup> And while they note that Aristotle did discuss the idea of “natural law” in such works as the *Rhetoric* and *Nicomachean Ethics*,<sup>13</sup> what he meant by this concept seems to have little to nothing in common with modern human rights. For instance, not only did he not articulate a right to health, but he also strenuously emphasized the essential and *natural inequality* of the human race.<sup>14</sup> And while Plato proposed common property for some as part of his utopic political vision, neither he nor

Aristotle argued that human beings inherently deserved—or had a right to—any particular social or economic goods, much less healthcare.<sup>15</sup>

Yet before dismissing the legacy of antiquity entirely, it is important to briefly note that others did propose universalist ethical ideas and—to some extent—an *equality* (of sorts) among human beings under the Law of Nature. This more egalitarian conceptualization of natural law emerged from the works of some of the sophists, Greek philosophers of the fifth and fourth centuries BCE.<sup>16</sup> The sophists counterpoised *physis* (nature) with *nomos* (norms or conventions), seeing various merits in each.<sup>17</sup> While, for some sophists (like Callicles) an emphasis on the superiority of *physis* over *nomos* might simply mean a doctrine of “might makes right,” for others it was used to emphasize natural human equality over unjust human conventions.<sup>18</sup> Remarkably, it also seems that sophists were among the earliest in history to argue that slavery itself was inherently unnatural—or against *physis*—and therefore unjust.<sup>19</sup> Some sophists also stressed that Greeks and foreigners were fundamentally the same;<sup>20</sup> that “everyone shares a sense of justice and civic virtue”;<sup>21</sup> that nobility of birth was “something altogether empty”;<sup>22</sup> and that there should be “equality of education as well as equality of property.”<sup>23</sup>

It was during the Hellenistic Era that the doctrine of natural law (the *ius naturale* in Latin) was articulated and analyzed by philosophers of the Stoic school. The “immutable law” proposed by the Stoics, Lauterpacht wrote, knew of “no distinction between rich and poor, of Greek and barbarians.”<sup>24</sup> Against Aristotle, for example, Cicero contended that there is “no essential difference within mankind,” and that “we are all constrained by one and the same law of nature.”<sup>25</sup> However, Cicero’s (and other Stoics’) ideal of natural law still overall had little in common with modern human rights ideas: in the humanitarian realm, Cicero was fairly accepting of gladiatorial slaughter or atrocities in war, while from a social and economic perspective, he condemned economic redistribution and land reform.<sup>26</sup> Nonetheless, the ambiguous, conflicted Stoic formulation of the natural law—which declared men free in theory even while it condoned slavery in practice—was built into the foundation of Roman law during Justinian’s reign in the Byzantine Empire, through which it had an enormous impact on the Western intellectual tradition to the present day.<sup>27</sup>

But putting aside for the moment the question of the impact of the *ius naturale* on human rights theory, one might also ask whether these philosophical ideas played any role in efforts to make for a more just or fair society, to deliver socioeconomic goods—if not healthcare *per se*—to the poor. Seneca—whose Stoicism was of a more egalitarian bent than that of Cicero<sup>28</sup>—argued that men should show mercy to others, such as by providing aid to the unfortunate, “as one human being to another”—not out of pity, but in order to extend “assistance and benefit,” especially to disadvantaged groups like the elderly, the poor, and the disabled.<sup>29</sup> From a political perspective, there is also some limited and controversial evidence that some of the egalitarian ideas of philosophies like Stoicism may have contributed to efforts for social and economic change. The Stoic-taught tribune Tiberius Gracchus, for instance, famously moved to redistribute land downward in the era of the Roman Republic; this could be interpreted as a “measure of public

philanthropy,” one historian has noted, but at the same time was also meant to “eliminate the need for private charity or public aid . . .”<sup>30</sup> Some (but not others) have asserted that a Stoic influence might have underlain the Spartan Revolution of the third century BCE in Greece, in which two Spartan kings, during a period of rising economic inequality, sought to eliminate debts and redistribute some land.<sup>31</sup> And (possibly) amidst the regional unrest unleashed by this revolution, some have also seen an egalitarian thrust in the words of the Cynic poet and politician Cercidas, who denounced inequality and called for the redistribution of wealth, and possibly for efforts to help the sick.<sup>32</sup> Still, it seems to be a stretch to construct from such fragments some sort of Stoic social welfare ethos. Indeed, many Stoics—Cicero and Seneca included—moved into (and out of) circles of great power and wealth, perhaps because—as one historian notes—their “natural law concepts easily justified the established order.”<sup>33</sup>

What can we say about the idea of welfare for the poor or sick in antiquity more broadly? According to some scholars, the idea of a social imperative to help the poor, sick, and unfortunate was largely nonexistent in this era.<sup>34</sup> Finley, for instance, argued that the concept behind the phrase “[b]lessed are the poor” was not to be found in Greco-Roman values: “The very poor,” he wrote, “aroused little sympathy and no pity throughout antiquity.”<sup>35</sup> Indeed, assisting the poor might simply reinforce their innate slothfulness (an idea that would have a long shelf-life): as the Roman dramatist Plautus put it, “To give to a beggar is to do him an ill service.”<sup>36</sup> At the same time, the Greeks did have a complex and evolving notion of *philanthropia* (the origin of the English word “philanthropy”); the word means “love of mankind,” though it had something of a paternalistic or hierarchical connotation for the Greeks.<sup>37</sup> It was first used to describe Prometheus’s gift of fire to humankind, and more generally could mean the gods’ love for humanity.<sup>38</sup> By the fourth century, the word was employed as a “curb on brutality,” possibly under the strain of prolonged and vicious war.<sup>39</sup> But it seems its meaning slowly transformed over the years. With the emergence of Stoicism, for instance, it gained a more egalitarian connotation, suggesting a general benevolence towards all.<sup>40</sup> For Diogenes Laertius, it meant a number of things, including hospitality or charity to those in need.<sup>41</sup> It was also invoked in texts on medical practice that were drawn on by physician-writers like Galen. However, as one historian notes, the hospitality implied by *philanthropia* was essentially a privatized endeavor, and within such “ideological boundaries, there was initially no public duty toward the sick in ancient Greece. Illness remained a private concern.”<sup>42</sup>

Public welfare under the Greeks, was thus, in other words, limited—albeit perhaps with some exceptions, such as payments to the disabled poor in Athens.<sup>43</sup> With respect to healthcare, if one needed the services of a physician, generally speaking, she had to pay for it. In later centuries—whether in Western Europe, the Byzantine Empire, or the Islamic world—the sick poor could have recourse to the charitable hospital. However, despite the existence of Roman *valetudinaria*, or specialized hospitals for slaves and soldiers, there was no real equivalent of the charitable hospital in antiquity, no explicit centers of medical care for the poor.<sup>44</sup>

Medical care was, by and large, treated as a commodity like other goods and services.

Yet if there was no right—legal or moral or otherwise—for the poor to healthcare in antiquity, the reality was in fact more complex. In the ancient world, two “health services” are sometimes cited by scholars as potential sources of care for the poor: the temples of Asclepius, the god of medicine, and a diffuse and heterogeneous group of “public physicians” who, some have posited, treated the poor for free as a public service. Additionally, some Greek and Roman physicians advocated, at times, the provision of medical treatment outside the cash nexus. To some extent, in other words, there may have been some limited tension within the healthcare rights-commodity dialectic, even in this early era.

### **Ancient Healthcare: From the Temples of Asclepius to a Greek “State Health Service”**

For those unable to afford the fees of physicians (or maybe for those turned away by them), the Temples of Asclepius may have functioned as a source of healthcare for centuries. Asclepius is best known as the Greco-Roman god of medicine, and he first appears in Homer’s *Iliad* as a great and mortal physician. Hesiod describes him as the son of Apollo, sent to Hades for having committed the sin of resurrecting a patient from the dead. He was later deified, becoming the god of medicine and the father of a line of physicians, and a (confused) version of his snake-wrapped staff much later became a modern symbol of the medical profession in the United States. The god-physician Asclepius rapidly achieved enormous fame in antiquity: his cult and his temples spread throughout the Mediterranean world, from Greece to Asia Minor to Rome. For about a thousand years, people would come to these temples—sometimes traveling from afar—in the hope of finding a cure for their ailments. Once they arrived, they would pass the night inside the temple. Asclepius would then (it was said) visit them in their dreams and perform some medical feat—whether performing surgery or just providing instructions—that would hopefully leave them cured.<sup>45</sup>

No doubt visitors came to the temples of Asclepius for a variety of reasons. However, one major reason for Asclepius’s popularity—offered by Emma Edelstein and Ludwig Edelstein in their influential book on the cult—was that he served as a provider of healthcare for that large swath of the ancient world who could not afford the fees of physicians. The temple of Asclepius provided care, they argued, to both rich and poor sufferers alike. “[I]t was one of his claims to fame and admiration that he took care of the poor . . .” they describe, noting that he was thought of as the “god of the destitute.”<sup>46</sup> Medical historian Henry Sigerist concurred with their judgment, noting that whereas physicians were in the *business* of providing healthcare and thus not required to treat the poor, the “indigent sick man could always seek the god’s [Asclepius’s] help.”<sup>47</sup> Some scholars have also pointed to the hostels adjacent to the temples, where sufferers could go while waiting to be cured. These buildings were open to both the rich and the poor, and

so in some sense prefigured the Christian charitable hospital.<sup>48</sup> Was Asclepius's medicine, then, a sort of pre-commodified form of healthcare for the ancient world? Can we construe tension along a rights-commodity dialectic even at this early stage—between the Greek physician on the one hand, and the temples of Asclepius on the other?

Perhaps not. Before concluding that this cult represented some sort of incipient system of universal healthcare, it is important to note that the temples may not have been purely egalitarian ventures. For instance, what exactly did the temple priests want from the patients who sought Asclepius's help? While some scholars emphasize that the temple required only small gifts, thanks, or sacrifices, it may be the case that such "gifts" (or even cold cash) were not only appreciated, but required.<sup>49</sup> New scholarship has cast doubt on the theory that Asclepius represented a form of charitable or even less costly healthcare: those hoping to be cured, it has been argued, first had to pay the priests a negotiated sum.<sup>50</sup> Moreover, Greeks of the fifth century BCE may not have gone to the temples for inexpensive or free care, but for another reason altogether: to be treated for conditions that physicians would typically refuse to treat, namely chronic or incurable diseases.<sup>51</sup> This was no doubt an important service, and in any event it is easy to imagine that patients sought cures from Asclepius for a variety of reasons, sometimes economic. Additionally, it is worth noting that these shrines may also have functioned as a stage for the display of wealth and prestige by elites, who would sometimes pay for elaborate dedications at them<sup>52</sup> (perhaps roughly analogous to elite donations to large medical centers in the present day, in exchange for their names plastered on the hospital or medical schools). Still, Asclepius remained greatly popular as a source of care for a broad swath of the population into late antiquity—indeed into the sixth century CE—when paganism was finally suppressed, and the god of medicine brought to heel.<sup>53</sup>

If Asclepius did not then primarily serve as a source of healthcare for the poor, what can be said of the established healers of the Hippocratic tradition? Hippocrates himself is an obscure figure, purported to have descended from Asclepius, and it is unknown if any of the works typically credited to him were indeed authored by him.<sup>54</sup> That said, it is worth asking what the Hippocratic corpus had to say about the delivery of healthcare to the poor. The famous Hippocratic oath contains various ethical commandments, yet it says nothing about distributive healthcare justice. However, the profit-oriented approach of established healers was sometimes criticized *even in antiquity*. In a long rant against the (predominantly Greek) medical profession, for instance, Pliny the Elder wrote of physicians' "avarice, their greedy bargains made with those whose fate lies in the balance, the prices charged for anodynes, the earnest-money paid for death, or their mysterious instructions . . ." The profession was condemned by his forefathers, he wrote, "chiefly because they refused to pay fees to profiteers in order to save their lives."<sup>55</sup>

In fairness, however, in one Hippocratic work—the *Precepts*—the problem of physician fees—and of providing healthcare to those of limited means—received a far more nuanced discussion.<sup>56</sup> The Hippocratic *Precepts* offers a somewhat more

egalitarian approach, especially as compared with that of the contemporaneous Empiricists, who spoke more frankly about moneymaking as the main pursuit of a physician.<sup>57</sup> For example, the *Precepts* warns that a physician “must not be anxious about fixing a fee,” as “such a worry” might “be harmful to a troubled patient . . .” Here, however, the writer is not so much urging the reader to humanitarian feats as he is suggesting that an emphasis on payment will not be good for the psychological health, and therefore medical outcome, of the patient. However, the text continues, “the quickness of the disease, offering no opportunity for turning back, spurs on the good physician not to seek his profit but rather to lay hold on reputation . . . it is better to reproach a patient you have saved than to extort money from those who are at death’s door.” The emphasis here is still more on the importance of the physician’s honor over his or her wallet, than it is on any incipient conceptualization of the patient’s “right” to be treated. Still, the treatise goes a bit further, perhaps even suggesting that there is an *imperative* to treat those who are unable to afford care: the author asks the reader “not to be too unkind, but to consider carefully your patient’s superabundance or means.” Indeed, it exhorts, “Sometimes *give your services for nothing*, calling to mind a previous benefaction or present satisfaction” (emphasis added), and “if there be an opportunity of serving one who is a stranger in financial straits, give full assistance to all such.”<sup>58</sup>

Moreover, in the Roman era, maybe under the influence of Stoicism, some medical writers exhibited a perhaps even greater egalitarian concern, with *philanthropia* placed closer to the center of a doctor’s duties. Galen of Pergamum, for example, the most prominent physician not only of Rome but of the entire pre-Renaissance Western medical tradition, emphasized the importance of *philanthropia* in medicine: he claimed that he cared for the poor and that indeed, he did not even take payment from his patients. He also recounted a story about Hippocrates—whom he held in the highest regard—in which the father of medicine allegedly turned down a position from a Persian ruler so that he could continue to care for the Greek poor.<sup>59</sup> It has also been said that Galen “prided himself on treating senators and slaves with the same scrupulousness.”<sup>60</sup>

The Roman physician Scribonius Largus, who lived in the first century CE and was also influenced by Roman Stoicism, likewise articulated a more egalitarian mission for medicine.<sup>61</sup> In one text, he emphasizes the ideas of *humanitas* (or “humane feeling and kindness”) and *misericordia* (“compassion”).<sup>62</sup> Although in part he was simply advocating the use of drug therapy (then a matter of controversy), he conceptualizes the practice of medicine as “an enterprise of compassion” that is “based in an evolution of Greek *philanthropia*,” in which “the physician will serve beyond self-interest.”<sup>63</sup> Notably, Largus contends in this text that medicine “does not measure a man’s worth according to his wealth or character, but *freely offers its help to all who seek it*, and never threatens to harm anyone” (emphasis added).<sup>64</sup> For Largus, one scholar argues, *philanthropia* was “an essential feature of the true physician.”<sup>65</sup>

Care for the poor of antiquity was also provided by the system of “public physicians,” which some historians have described as a precursor to universal

healthcare. These municipal physicians became a topic of historical conversation in the eighteenth century, and by the nineteenth century, French historians were positing the existence of a network of Greek and/or Roman public physicians that together constituted something of a system of free public medical care.<sup>66</sup> The earliest mention of a public physician comes from a Greek historian who describes some “former lawgivers who had required that private citizens when ill should enjoy the services of physicians at state expense.”<sup>67</sup> A public physician was later alluded to in a passage in Aristophanes in which a peasant requests medical care, and is instructed to instead seek out the public physician.<sup>68</sup> Centuries later, a scholiast annotated the text, and defined the word used for public physician as “the physicians appointed by the state being public officers . . . accustomed to attend upon the sick without fee.”<sup>69</sup> More evidence emerges during the Hellenistic era, when a large number of inscriptions were made praising public physicians for various “distinguished services.”<sup>70</sup> Some interesting bits of evidence come from these inscriptions, which date back to the fourth century BCE.<sup>71</sup> One doctor, for example, was rather remarkably praised for having “treated all equally, poor and rich alike, slave and free.”<sup>72</sup> Similarly, another doctor was honored for having “. . . saved many of the townsfolk . . . when they were in a critical condition, accepting no fee . . .”<sup>73</sup> Drawing on this sort of evidence, the classicist A.G. Woodhead somewhat breathlessly concluded in 1952 that a “state health service is not as new an institution as is generally supposed,” that it “existed in the ancient world in Greek lands” and in fact constituted the “most comprehensive and widespread State Health Service that the world has yet seen,” providing care regardless of the means or the liberty of the patient.<sup>74</sup>

But did, as the historian Louis Cohn-Haft later asked, the ancient Greeks really have a system of socialized medicine?<sup>75</sup> His answer is a clear *no*.<sup>76</sup> There is little question that municipal physicians existed; what is unclear, however, is whether they actually were *required* to provide free care to the poor, and also what this role meant in different periods and regions.<sup>77</sup> Cohn-Haft argued that the inscriptions which form most of the evidence about this supposed national health service demonstrate that *not* accepting fees was considered exceptional—something deserving of praise. Why, he asks, would public physicians be celebrated for merely doing their job?<sup>78</sup> Cities may have simply hired such a doctor in order to ensure that they had at least one resident physician.<sup>79</sup> Perhaps all that can be concluded, therefore, was that there *was* a system of public physicians, and that these physicians took on a variety of roles (which differed over time and by location), some of whom were praised for caring for all—including poor or slaves—for free.<sup>80</sup> In sum, just as Aristotle cannot be said to have proclaimed a right to healthcare, the ancient Greeks cannot be said to have created socialized medicine.

Considered together, the ideas and practices cited in this section thus amount to mere fragments of a more egalitarian healthcare ethos: by and large, there seems to have been only some weak strain in the health rights-commodity dialectic of this era, with medical care still mainly a good to be purchased by those who could afford it, who were generally people of means.

### India and China: Hospitals and the Ethics of Egalitarianism

Similar fragments can be found outside the West. In South Asia, a number of scholars have identified charitable medical facilities, sometimes described as hospitals, as far back as ancient times. Such institutions, which might be described as instances of an early “universalist-medical ethos,” seem to have been inspired in part by Buddhism, perhaps not surprising given the religion’s founding tenets and myths. As one scholar puts it, “Buddha’s interest in medicine formed part of his compassion for living beings and for the sick.”<sup>81</sup> Buddha himself was said to have proclaimed, “Whoever, O monks, would nurse me, he should nurse the sick.”<sup>82</sup> Buddhism may have also influenced the creation of some of the earliest known “hospitals,” perhaps as far back as the fourth century BCE.<sup>83</sup>

Scholars have also noted a public role in the provision of medical welfare in ancient India. Though treatment at home was more typical, the state would provide for the lodging and care of those who didn’t have access to assistance from others, in particular during the reign of King Asoka.<sup>84</sup> In the aftermath of a horrific war, Asoka purportedly felt great repentance, relinquishing militarism and turning to non-violence and “Dharma.”<sup>85</sup> According to the messages he had written on rocks throughout the empire, he also appears to have embraced religious tolerance and to have taken on some interesting social welfare projects.<sup>86</sup> For instance, he set up an office of “Dharma officials,” according to one edict, who were to provide help to (among others) “the poor and the aged, to secure the welfare and happiness and release from imprisonment of those devoted to Dharma.”<sup>87</sup> With respect to healthcare, he claimed in one of his edicts that in many territories, “everywhere provision has been made for two kinds of medical treatment, treatment for men and for animals.”<sup>88</sup> Additionally, “[m]edicinal herbs, suitable for men and animals, have been imported and planted wherever they were not previously available.”<sup>89</sup> The institutions set up during this period and later have been described as “either regular hospitals for the poor and the needy or poorhouses equipped with medicines,” as well as dispensaries having a “charitable character.”<sup>90</sup> Their charitable purpose can be gleaned from a contemporary description by a traveling Chinese Buddhist by the name of Fa-Hien (CE 405–411).<sup>91</sup> Fa-Hien wrote how the town’s nobility established:

[H]ouses for dispensing charity and medicines. All the poor and destitute in the country, orphans, widowers, and childless men, maimed people and cripples, and all who are diseased, go to those houses, and are provided with every kind of help, and doctors examine their diseases. They get the food and medicines which their cases require, and are made to feel at ease . . .<sup>92</sup>

Ancient China saw some similar developments, including the construction of hospital-like institutions with what seems to have been an explicitly charitable function. During the same century in which Fa-Hien traveled to India, the first permanent hospital-like institutions in his home country were established. Although the first institution was built by a Buddhist prince in the fifth century