



21st Irish European Law Forum

HUMAN RIGHTS, POVERTY AND SOCIAL JUSTICE

Saturday 3 November
2018

Radisson Blu St. Helen's Hotel
Stillorgan, Co Dublin



The event is proudly co-hosted by the University of Glasgow. We wish to thank them for their support as well as the support of UCD Sutherland School of Law.

University College Dublin, Sutherland School of Law 21st Irish European Law Forum
UCD Centre for Human Rights in association with
University of Glasgow School of Law

This one-day conference will bring together scholars from a range of disciplinary fields to address the role that human rights have in tackling the global challenges of poverty and material deprivation. It will consider the moral basis and content of human rights against poverty, what obligations these rights entail and how they can be institutionally implemented and enforced.

The conference will also consider the possible limitations of human rights as a means of responding to economic inequality, and will engage with critical debate on whether human rights are, in fact, the best instrument for confronting economic inequality, or whether alternative programmes of social justice are needed.

PROGRAMME

- 9:00 – 9:30** **Registration and Coffee**
- 9:15 – 9:30** **Welcome and Introductions**
Professor Imelda Maher, Dean, UCD Sutherland School of Law
Dr Suzanne Egan, Director, UCD Centre for Human Rights
Dr Graham Finlay, UCD SPIRe
- 9:30 – 10:00** **Opening Comments**
Chief Commissioner Emily Logan, Irish Human Rights and Equality Commission
- 10:00 – 12:00** **Plenary Session**
- Professor Charles Gore**, Former Head of Research on Africa and Least Developed Countries in UNCTAD and Honorary Professor of Economics University of Glasgow Business School
“How the Idea of Poverty Went Global: Development, Basic Needs, Human Rights and Social Justice in the 1970s”.
- Dr. Julia McClure**, Glasgow, School of Humanities, History Department.
“Never Enough: The Rights of the Poor in Historical Perspective”.
- Professor Wouter Vandenhole**, Antwerp, UNICEF Chair in Children’s Rights, Faculty of Law.
“Planet or People? Sustainable Development and Redistribution”.
- Dr. Jesse Tomalty**, University of Bergen, Associate Professor, Dept. of Philosophy.
“Reflections on individual responsibility for global poverty”.
- Dr. Elizabeth Ashford**, University of St Andrews, Senior Lecturer in Moral Philosophy.
“Severe Poverty as a Structural Human Rights Violation”.
- 12:00 – 13:00** **Keynote**
Professor Philip Alston, the John Norton Pomeroy Professor of Law (NYU) & United Nations Special Rapporteur on extreme poverty and human rights.
- 13:00 – 14:00** **Lunch**

14:00 – 15:30

Parallel Sessions

<p>Parallel Session A <i>Theoretical Perspectives</i></p> <p>Dr. Vittorio Bufacchi, UCC, Department of Philosophy <i>“Are Human Rights as White as Snow?”</i></p> <p>Dr. Su-ming Khoo, NUI Galway, School of Political Science and Sociology <i>“Arguments for a Zeroth Generation of Human Rights: Poverty, Social Justice and Sustainability in Posthuman Times”</i>.</p> <p>Dr. Anna Chadwick, University of Glasgow, School of Law <i>“The Right to Adequate Food and the Political Economy of Hunger”</i>.</p>	<p>Parallel Session B <i>The Role of Human Rights Law</i></p> <p>Dr. Aoife Daly, University of Liverpool, School of Law and Social Justice <i>“An Emphasis on Socio-Economic Rights: A Boost for the Popular Discourse?”</i></p> <p>Ms. Leonie Smith, University of Manchester, School of Social Sciences <i>“The Inability of Rights Legislation to Address UK Poverty Abuse”</i>.</p> <p>Dr. Thamil Ananthavinayagan, Griffith College, School of Law <i>“Writing Resistance into International Human Rights Law – Developing a Counter-Hegemonic Strategy to Overcome Social Injustice and Eradicate Poverty”</i>.</p>
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15:30 – 15:45

Coffee Break

15:45 – 17:15

Parallel Sessions

<p>Parallel Session C <i>Strategic Approaches</i></p> <p>Dr. Guy Aitchison, King’s College, London <i>“Human rights, poverty and international resistance”</i>.</p> <p>Dr. Koldo Casla, University of Newcastle, Institute of Health and Society <i>“Taking Material Equality Seriously in Social Rights Research and Advocacy: Four Policy Proposals”</i>.</p> <p>Mr. Pedro Lippmann, Federal University of Rio de Janeiro and Université de Rennes <i>“Poverty, Participation and Political Responsibility: Taking Up Our Responsibilities to the Poor”</i>.</p> <p>Dr. Lonneke Peperkamp, Radboud University, Law Faculty <i>“Subsistence Wars: Linking Global Distributive Justice and Just War Theory”</i>.</p>	<p>Parallel Session D <i>Comparative Perspectives</i></p> <p>Dr. Maria Dalli, Human Rights Institute, University of Valencia <i>“Access to Minimum Income in Ireland and Spain”</i>.</p> <p>Dr. Nita Mishra, Dublin City University, Ireland India Institute <i>“Operationalising Human Rights-Based Approaches to Development: The Chinks in the Armour”</i>.</p> <p>Dr. James Kirby, Durham University, School of History <i>“The Road Not Travelled: Economic and Social Rights in 1960s Botswana”</i>.</p>
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17:15

Closing

Emily Logan, Chief Commissioner, Irish Human Rights and Equality Commission



Emily Logan is the first Chief Commissioner of the Irish Human Rights and Equality Commission appointed by President Michael D Higgins on 31 October 2014, following an open competition.

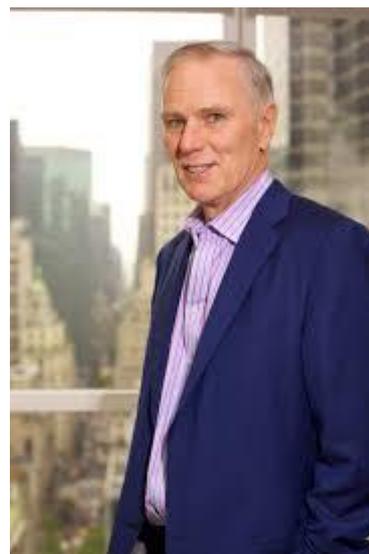
In the decade prior to her appointment, Ms Logan served as Ireland's first Ombudsman for Children, accounting directly to the Oireachtas. Key areas of investigation by the Ombudsman for Children's Office during her tenure included a multi-agency review of child death and own-volition systemic investigation into state compliance with child protection policy.

In accordance with its remit as a national human rights institution for children, Ms Logan progressed the rights of children without parental care, in particular separated children, children in care and children deprived of their liberty. Over her period in the Ombudsman for Children's Office, Ms Logan advocated an amendment to the Irish Constitution to further enhance the rights of children.

Philip Alston Professor Philip Alston, the John Norton Pomeroy Professor of Law (NYU) & United Nations Special Rapporteur on extreme poverty and human rights.

Professor Philip Alston is the current Special Rapporteur on extreme poverty and human rights. The Special Rapporteur is an independent expert appointed by the Human Rights Council and undertakes the following main tasks: (1) conducting research and analysis to be presented in separate thematic reports to the Human Rights Council and the General Assembly; (2) undertaking country visits and reporting on the situation in those countries in relation to the concerns of the mandate; (3) sending letters to governments and other relevant entities in situations in which violations of human rights of people living in extreme poverty are alleged to have taken place.

The mandate on extreme poverty was first established in 1998 by the United Nations Commission on Human Rights, and was taken over by the Human Rights Council in June 2006. It is one of a number of mandates that together form what is known as the United Nations system of special procedures.



Imelda Maher, Dean, UCD Sutherland School of Law

Imelda Maher is the Dean of Law and the inaugural Sutherland Full Professor of European Law. She is interested in the relationship between law and governance especially in economic spheres. She has published extensively in competition law and also on EU governance and presents her work regularly at international conferences and workshops. She was general editor of *Legal Studies* (2012-2017) and is a member of the editorial boards of the *European Law Journal* and of the *Irish Yearbook of International Law*. Her main research interest is in law and governance and her work straddles the two domains of competition law and EU law.



Suzanne Egan, Director, UCD Centre for Human Rights



Suzanne Egan is Associate Professor in international human rights law, European human rights law and human rights education at the School of Law, UCD and is also Director of the UCD Centre for Human Rights. Suzanne has published widely in the field of international human rights law, with a particular focus on human rights institutions and procedures, asylum law and policy and human trafficking. Her book, *The UN Human Rights Treaty System: Law and Procedure* (Bloomsbury) was shortlisted for the Irish Association of Law Teachers, Kevin Boyle prize for outstanding legal scholarship in 2012 and in 2017, Suzanne was awarded an LL.D. by the National University of Ireland for her published work in the field of international human rights law.

Graham Finlay, UCD, SPIRe

Professor Graham (Ph.D. Johns Hopkins, 2002) has been a Lecturer in the School of Politics and International Relations (SPIRe), University College Dublin since 2004. In 2009-2010, he was a Member of the School of Social Sciences of the Institute for Advanced Study, Princeton, working on a project on 'Education for Cosmopolitan Citizenship'. His research interests include the history of political thought, especially John Stuart Mill, consequentialist thought, citizenship and development education, the theory and politics of human rights (especially migrants' rights) and various topics in international justice, including migration and development.



Suzanne d'Arcy, Research Manager, UCD Sutherland School of Law



Suzanne is the Research and Innovation Manager at the Sutherland School of Law and has over 20 years work experience in project management, research funding strategy and proposal writing. She is an accomplished manager with a record of achievement in research and project management in both the public and private sectors and a proven capability in education, recruitment and media.

Highly digitally literate, organised and with excellent interpersonal skills, she combines a legal qualification with a background in third level education.

BIOS & ABSTRACTS

Dr Guy Aitchison

Guy is a political theorist who currently teaches in the Philosophy department at King's College London.

His research interests are in theories of human rights, migration and the ethics of political resistance. He also has a developing interest in the ethics of digital participation and online public shaming (something he was [interviewed](#) about recently for the Irish Times).

As a researcher and educator, I am keen to develop research proposals, co-organised conferences, discussions and other collaborative work that engages these issues.



Human rights, poverty and international resistance

Abstract:

Each year millions of people cross state borders in violation of national immigration laws on admission and residence. The dominant discourse in the UK and other wealthy democratic states characterises these actions and persons as 'illegal'. Illegal immigration is morally suspect, it is said, since it undermines a state's right to control its borders and threatens the rule of law. This raises some fundamental ethical and political questions: Do non-citizen outsiders who have had no say over immigration law have duties to respect it? Is the violation of immigration law justified as a remedial measure to combat poverty and economic inequality? Is there a moral right to cross borders and if so what is the basis of such a right given it is not found in human rights law? In this paper, I set out answers to these questions.

I argue that unlawful border-crossing is a form of legitimate political resistance where the political process for constituting state borders is shaped by prejudice against outsiders and impact on their basic material interests to employment, welfare, housing and other goods. The basic contention is that the constitution of borders is an act of coercive power exercised over those outside of the political community. This raises a demand for democratic justification and accountability. Where the constitution of borders has been influenced by prejudicial discourses that do not respect outsiders as moral equals, then border controls lack legitimacy for those outsiders and they may justly resist them.



Dr. Thamil Anathavinayagan

Thamil, (Ph.D. NUIG, LL.M. Maastricht University, is a Lecturer for International Law at Griffith College, Dublin. His research interests lie in the field of the United Nations, public international law, international humanitarian law, international human rights law, post-colonialism and Third World scholarship.

He has worked for the German Labour Party, the Friedrich-Ebert-Stiftung and numerous non-governmental organizations in various European countries. Finally, he has presented papers in numerous countries and cities, *inter alia* Seattle, Singapore, Nottingham, Liverpool, Geneva, Padova, Dublin, Galway, Maastricht. Two of his recent publications deal with [the rights of refugees](#) and the [right to self-determination](#).

Writing resistance into international human rights law – developing a counter-hegemonic strategy to overcome social injustice and eradicate poverty

Abstract:

“[A]rmed with the powers of international financial and trade institutions to enforce a neo-liberal agenda, international law today threatens to reduce the meaning of democracy to electing representatives who, irrespective of their ideological affiliations, are compelled to pursue the same social and economic policies.” B.S. Chimni’s words are compelling in light of reports this year according to which 42 people hold as much wealth as the 3.7 billion who make up the poorest half of the world’s population. It needs to be asserted that the international human rights narrative is being manipulated to push a neo-liberal agenda and, by doing so, B.S. Chimni holds that “[t]he economic and political independence of the third world is being undermined by policies and laws dictated by the first world and the international institutions it controls.”

To this end, this paper wishes to discuss the following questions: what will and should be role of international human rights law to counter-steer these developments that entrench social injustice and perpetuate poverty? How can resistance find its way into international human rights law? What will be the role of Third World Scholarship to plan and employ strategies to localise legal resistance through the international human rights paradigm?

Balakrishnan Rajagopal writes that the “[v]ery architecture of contemporary international law has been constituted by its continuous (...) interaction with the category ‘Third World,’ which has included not only states, but also these social movements. The invocation of the ‘Third World masses,’ whether real or imaginary, was essential to the expansion of international institutions.” In the end, international human rights law must be transformed into a counter-hegemonic tool: blunt and forceful enough to challenge exploitive corporations, manipulative elites, international financial institutions and create opportunities to equal access to wealth and health while ushering in a renaissance of socio-economic rights.

Dr Elizabeth Ashford

Elizabeth joined the Department of Moral Philosophy in 2001. She did her MA at UNC Chapel Hill and her BA and DPhil at Oxford University, and was awarded her DPhil in 2002.

Her main research interests are in moral and political philosophy. She has recently finished a contribution to UNESCO Volume I, *Freedom from Poverty as a Human Right* (OUP forthcoming), and her current research project is to develop a book on utilitarian and Kantian conceptions of impartiality and of rights. During the academic year 2005-6 she was a Visiting Faculty Fellow in Ethics at the Harvard University Edmond J. Safra Center for Ethics, and the following summer she was an H.L.A. Hart Visiting Fellow at the Oxford University Centre for Ethics and the Philosophy of Law.



Severe Poverty as a Structural Human Rights Violation

Abstract:

One of the most important critiques of contemporary human rights discourse and practice is that it fails to acknowledge and challenge the underlying structures that underpin severe poverty. I argue, on the one hand, that the state-centric model dominant in current international human law does fail to adequately recognise – and even obfuscates – certain core aspects of the structural underpinnings of severe poverty.

On the other hand, I also argue that far from there being an antithesis between human rights moral framing and a recognition of deeper underlying structural injustice, a normatively adequate account of fundamental human rights has to recognise a category of structural violations of socio-economic human right; and that this framing is an essential normative tool in critiquing the structures that underpin severe poverty, and in empowering those currently overwhelmingly vulnerable to social and economic forces beyond their control that are depriving them of their most basic economic entitlements.



Dr. Vittorio Bufacchi

Vittorio was born in Italy, but grew up in Canada and the UK, before moving to the US and finally Ireland. He did his PhD at the London School of Economics, under the supervision of Professor Brian Barry. His thesis was on contemporary social contract theories of justice. He taught in the UK (Manchester), US (Yale; Colorado, Boulder; Dartmouth), and Ireland (University College Dublin and University College Cork). He has published six books so far, in political philosophy (violence; social injustice; democratic theory) and Italian politics. His work has been translated in Chinese, Spanish and Italian.

His main research interests are in contemporary political philosophy, especially theories of social justice; human rights; political violence; and the idea of injustice

Are Human Rights as White as Snow?

Abstract:

This paper will argue that human rights are not the best instrument for addressing global poverty. There are three main parts to this paper. Part 1 will present the case in favour of addressing the question of poverty in terms of a human rights discourse, while Parts 2 and 3 will put forwards two counter-arguments to this popular thesis, suggesting that thinking of poverty as a human rights abuse is either superfluous and/or counterproductive.

Part 1 will focus on two ways of approaching poverty from a human rights perspective. First, Thomas Pogge's popular account from his influential book *Global Poverty and Human Rights*. Secondly, Henry Shue's account of 'subsistence rights', and in particular what James Nickel refers to as the 'linkage' argument: that unless subsistence rights are provided, people in extreme poverty will continue to be marginalised from the enjoyment of all their other rights.

Part 2 will argue that human rights discourse is superfluous, since poverty can be analysed more fruitfully by theories of social justice, and the human rights discourse does not add anything to our understanding or condemnation of poverty. The analysis here compares theories of human rights to theories of truth, and suggests that we embrace a deflationary stand regarding human rights akin to deflationary theories of truth; hence the title of this paper.

Part 3 will argue that human rights, apart from not being the best currency for addressing issues of poverty, may even prove to be counter-productive, for two reasons: first, it merely adds to the problem of human rights inflation. Secondly, if we minimize human rights by assuming that human rights abuses act as potential triggers for intervention by one society against another, then the human rights abuse of enduring poverty will go unpunished, with the collateral damage of exposing the limited impact of human rights practice and even undermining the faith and resolve people have on the idea of human rights.

Dr Koldo Casla

Koldo is a Research Associate at the Institute of Health & Society of Newcastle University, and the Policy Director of [Just Fair](#), an organisation that monitors and campaigns for economic and social rights in the UK.

He holds a PhD in European and International Studies from King's College London (2017), a Fulbright MA in International Studies from the University of Denver (2011), a MA in Theory and Practice of Human Rights from the University of Essex (2009), and a Law Degree from the University of the Basque Country (2008). Between 2011 and 2013, Koldo was the Chief of Staff of the Human Rights Commissioner of the Basque Country ("Ararteko").



Taking Material Equality Seriously in Social Rights Research and Advocacy: Four Policy Proposals

Abstract:

This paper is partly a response to Samuel Moyn's critique in his book *Not Enough* (2018). Moyn argues that either human rights are ill equipped to respond to the challenges of rising material inequality, or human rights advocates have failed to address the root causes of the damaging inequalities associated with neoliberal policies of the last four decades.

Picking up Moyn's gauntlet, the paper is divided in two sections. The first one sustains a theoretical foundation of social rights as the material conditions of freedom and as the necessary support to be able to participate meaningfully in society. Economically advanced societies already have the necessary resources to satisfy an adequate standard of living for everyone. The problem is that most of these resources are privately owned and accumulated by dispossession. Only equalising policies can ensure public authorities make use of the maximum of available resources to fulfil socio-economic rights progressively, as required by Article 2(1) ICESCR.

In the second section the paper presents four policy proposals to understand and champion social rights taking material equality seriously: Firstly, the recognition of socio-economic status as a protected characteristic or prohibited grounds of discrimination; secondly, the creation of a public duty so authorities are required to actively consider the likely effects of policies on inequalities of outcome that derive from socio-economic disadvantage; thirdly, a net wealth tax, in the form of land value tax or otherwise, to address wealth inequalities; and fourthly, the protection of collective bargaining and union rights as an equalising tool.

This paper is informed by human rights theory literature as well as the practice of research and campaigning by the human rights group Just Fair and other organisations in the UK and internationally.



Dr. Anna Chadwick

Anna joined the School of Law as Lord Kelvin Adam Smith Research Fellow in 2017, after completing a two-year Max Weber Fellowship at the European University Institute, in Florence. She was awarded her doctorate by the London School of Economics and Political Science (LSE) in November 2015.

Anna's research interests lie at the intersection between law and markets. Her PhD explored the role of commodity derivatives speculation in the context of the 2007-11 global food crisis, and offered a critical assessment of attempts to use financial regulation as a means to curb excessive levels of speculation in derivatives markets.

The Right to Adequate Food and the Political Economy of Hunger

Abstract:

In recent years, considerable emphasis has been placed on developing legal solutions to poverty and deprivation. Most notably, human rights law seeks to empower the vulnerable and to improve their position in global society by mandating governments and courts to 'respect, protect, and fulfil' socio-economic rights.

In this paper, I challenge the widespread positioning of law as a solution to the problem of hunger. I draw on the work of Amartya Sen, Karl Marx, and Karl Polanyi, along with Institutional scholar on markets, to demonstrate that legal regimes actively contribute to the production of hunger in the world. I then consider the significance of this finding for both the efforts to realise a human right to adequate food, and for the more radical agenda of the food sovereignty movement.

Dr. Maria Dalli

María is currently a Researcher at the Human Rights Institute on an 'Attraction of the Talent' contract of the VLC-Campus.

María completed her doctoral thesis under the supervision of Professor María José Añón on The Universal Entitlement to the Right to Health. Her main area of research is social rights and the universal entitlement to them, with special interest on the analysis of the conditions that hinder the enjoyment of these rights for all people. María has taught in the Human Rights and Legal Theory subjects in the degree of Law and in the Social Rights subject in the degree of Social Work. She also collaborates with the Legal Clinic for Social Justice of the Universitat de València.



Access to minimum income in Ireland and Spain: a comparative study

Abstract:

The fight against poverty, social exclusion and unemployment is a challenge of the utmost importance within the European Union (EU): Eurostat has estimated that 118 million people in the EU were at risk of poverty or social exclusion (ARPE) in 2016, equivalent to 23.5% of the population.

Access to social protection is regulated differently in the EU Member States. **Minimum income (MI)** schemes are directed towards individuals and families with economic difficulties as a last resort mechanism, covering needs or challenges that are not covered by other schemes, mainly social insurance protection systems. This piece of research analyses the regulations of access to last resort minimum income schemes in Ireland and Spain: the **Supplementary Welfare Allowance (SWA) in Ireland**, and the **distinct MI schemes** organised and provided regionally **by the Spanish Autonomous Communities**. By analysing and contrasting the various schemes, it is possible to find **similarities and differences of interest**.

Furthermore, specific attention is paid to the implementation of **labour activation measures** as well as to the **gender implications** of the MI programs. Finally, the work focuses on the **residence conditions** to access MI: do the studied countries recognise MI benefits to all habitual residents in the country? Do they recognise them to all EU migrants or only to EU migrant workers? While Spanish Autonomous Communities require certain periods of residence and municipal registration (*empadronamiento*) regardless statuses of nationality or legal residence and independently from the work record, the Irish regulations require different conditions depending on whether an applicant is an EU/EEA migrant worker or not.

This may be questionable from a human rights perspective, specifically according to **equality of treatment** and to **the right to social assistance**.



Dr. Aoife Daly

Aoife is Senior Lecturer at the School of Law and Social Justice, University of Liverpool. She has worked and researched widely on human rights law, specialising in children's rights, and has held a number of NGO and academic positions. She published in 2018 the book *Children, Autonomy and the Courts*, in which she argues for greater transparency around the weight given to children's wishes in proceedings about their best interests.

She has produced reports for the UK Equality and Human Rights Commission, the Council of Europe, and the Baring Foundation. Some of Aoife's current projects relate to sex education as a human right, children and equality law, and comparative work in adoption law in Sweden and England/Wales.

An Emphasis on Socio-Economic Rights: A Boost for the Popular Rights Discourse?

Abstract:

In this paper it will be argued that there is evidence from domestic experience and practice that, contrary to some arguments, incorporation of the International Covenant on Economic, Social and Cultural Rights is not only possible but in fact desirable from the perspective of enhancing support for the human rights framework. Domestic legal incorporation of socio-economic rights are often perceived as being politically challenging, and perhaps even an interference with the separation of powers doctrine.

There is evidence however of popular support for the incorporation of socio-economic rights and this could be developed further in the UK and elsewhere. In New Zealand, where some say that human rights was previously seen as only 'for criminals', support was garnered for human rights through a comprehensive consultation process with greater emphasis on socio-economic rights. Practice in South Africa indicates that socio-economic rights can be adjudicated through domestic law, and their incorporation on a par with civil and political rights can be realised in accordance with a stable constitutional and democratic order. This will also likely progress a human rights culture. The potential for socio-economic rights to make the case for investment in public services such as health and education systems, water, housing and labour rights will likely reinforce an understanding of rights as having the potential to uphold communal values. This leads us to recommend, then, that socio-economic rights should be a priority for incorporation.

Co-Authors:

Joshua Curtis, School of Law and Social Justice, University of Liverpool and Yvonne McDermott Rees, School of Law, University of Swansea

Prof. Charles Gore

Charles is currently an Honorary Professor of Economics at the University of Glasgow and a Research Associate in Global Studies at the University of Sussex.

His current research focuses on the history of development and the idea of global goals, with a focus on how the idea of basic needs was introduced into international development theory and practice in the 1970s and how poverty was first imagined as a global concept. He was elected a Fellow of the Academy of Social Sciences (UK) in 2014.



How the Idea of Poverty Went Global: Development, Basic Needs, Human Rights and Social Justice in the 1970s

Abstract:

This presentation, based on on-going work, seeks to reconstruct how the idea of poverty became a global concept in the 1970s. This occurred as modernization theory was challenged and various alternative visions of world order were put forward in a context of deepening global interdependence.

The frame shift in the conceptualization of poverty, which was articulated through the notion of basic human needs, preceded – and became intertwined with – the take-off of international human rights practice in 1977.

This was a fork in the road which has led to the world we live in today. Reconstructing the history of how poverty went global *then* enables the imagination of alternative just world futures *now*.



Dr. Su-ming Khoo

Su-ming Khoo is a Lecturer in Political Science and Sociology, and Cluster Leader of the Whitaker Institute: Environment, Development and Sustainability and Ryan Institute: Socio-Economic Impact Research Clusters at NUI Galway.

Her research is on human rights, human development, public goods, development alternatives, global activism, and higher education.

Arguments for a zeroth generation of human rights: poverty, social justice and sustainability in posthuman times

Abstract:

This paper responds to questions of rights, poverty and social justice by revisiting the 'generations' of human rights. Seven decades after the UDHR, the world is witnessing a dehumanizing double movement of increasing rightlessness, with extreme inequalities of wealth and power. Critiques of liberal human rights find them 'not enough' to deliver social justice (Moyn 2018). However, the problem lies less in the liberal rhetoric of human rights universalism than what that rhetoric veils - an absence of human rights universalism in reality. Extreme poverty and injustice reflect repeated breaches of the basic 'floor' of laws, norms and values and failures to vindicate general duties towards fundamental principles of humanitarian conduct, equality, non-discrimination and rights.

A post-human context sees redacted universalism coupled with legal, economic and technological utopianism. The combined threats of human instrumentalization and plutocratic domination are nontrivial. First generation civil and political rights are threatened by algocracy, second generation rights e.g. the right to health are threatened by pharmocracy, and third generation rights e.g. the right to a healthy environment are threatened by chemocracy.

The zeroth generation concept adapts the fictional zeroth Law of Robotics to express a precondition 'zeroth' generation of rights necessary to the three 'generations' of rights, specifying the common duty to vindicate humanity as such. This compels human rights to 'give back the human', re-setting human rights within the obligation of all parties (not only states) to protect humanity and its 'safe operating space'. This zeroth generation is arguably central to the SDGs and the future of multilateralism. It concerns the core of the 'social and international order', expressed in UDHR Articles 28, 29 and 30. Collective duties towards humanity ultimately represent essential preconditions for a just international order that vindicates human rights and realises the potential of rights-based multilateral cooperation and sustainable development.

Dr. James Kirby

Dr. James Kirby is a COFUND Junior Research Fellow at Durham University. His doctoral dissertation was a history of human rights and decolonisation in Botswana, from 1960 to 1980. This study included research trips to archives in Botswana, the United Kingdom, and the United States.

He has published peer-reviewed articles in several international journals, including *The International History Review*, *The Journal of Imperial and Commonwealth History*, and *Law & History*. He also has a forthcoming chapter in *The Routledge History of Human Rights*, edited by Jean Quataert and Lora Wildenthal.



The Road Not Travelled: Economic and Social Rights in 1960s Botswana

Abstract:

This paper examines the proposal for economic and social rights in Botswana's 1966 independence constitution. The country is known as an economic 'success story' and for maintaining one of the best human rights records in Africa, especially in terms of political and civil rights. The Botswana Democratic Party, which has ruled since independence, led calls for democratic freedoms and individual protections to be enshrined in the constitution in the mid-1960s. Seretse Khama, leader of the party and Botswana's first President, outlined a state philosophy of non-racialism and liberal democracy that appealed to Western donors and allies. Seretse's vision for post-colonial Botswana, however, was contested by the opposition Botswana People's Party, which called for greater socio-economic equality and African collectivist rights. The Botswana People's Party was influenced by exponents of African Socialism such as Tanzania's Julius Nyerere and Ghana's Kwame Nkrumah.

The British colonial rulers left Botswana severely underdeveloped and dependent on neighbouring white minority regimes in South Africa and Rhodesia. Botswana's political leaders presented differing ideas for alleviating poverty and achieving social justice in a multi-racial society. This paper utilises archival findings from Botswana and the United Kingdom to examine the party-political debates during the 1962-63 Select Committee on Racial Discrimination, the 1963-65 constitutional talks, and the 1965 elections. It considers the ramifications of the defeat of the People's Party's proposal for socio-economic rights and whether their now forgotten ideas about social justice have relevance for modern-day Botswana. Today, Botswana has one of the highest rates of socio-economic inequality in the world. The research is placed in the wider context of anticolonialism in Africa, constitution-making in British dependencies, and the international human rights movement.



Mr. Pedro Lippmann

Pedro is a PhD Candidate in Philosophy at the Federal University of Rio de Janeiro (Brazil) and at the University of Rennes (France).

His thesis' research focuses on normative accounts of poverty and the justification of collective and individual responsibilities to redress structural injustices. He is mainly interested in issues of global ethics and justice.

Poverty, Participation and Political Responsibility: taking up our responsibilities to the poor

Abstract:

This paper examines two interconnected issues: (i) what are our political responsibilities to individuals living in poverty? And (ii) why should having such responsibilities lead us to endorse more inclusive and participatory anti-poverty policies?

I shall try to provide an answer to these questions by drawing from and, eventually, departing from Iris Young' social connection model.

Political responsibilities are traditionally considered a class of responsibilities that are ascribed to the members of a given polity, *qua* citizens, whereas I shall claim, as does Young (2011), that it would be fruitful to understand the "political" point in question as a term that denotes the individual's responsibility to engage in collective action to redress injustices.

While Young drafts her model to account for cases of structural injustice and conceptualizes political responsibilities within such limits, I shall claim that such responsibilities may nonetheless apply to other cases of injustice.

In order to qualify this claim, I draw on a distinction between causal and humanitarian responsibilities to alleviate poverty (Lichtenberg 2018) and contend that both may accommodate a dimension compatible with the aforementioned idea of political responsibility.

For the sake of efficiency, it may well be that specific measures to redress poverty should ultimately be determined by contextual or pragmatic elements. Nevertheless, I will claim that we have strong epistemic and moral reasons to think that fighting poverty requires measures aimed at giving the poor a real stake in the design and implementation of anti-poverty policies.

In light of such reasons, discharging our political responsibilities implies engaging in coordinated efforts to include the poor in participatory policies aimed at fighting poverty, both domestic and abroad, and doing justice to their standing as political agents and as potential bearers of shared political responsibility.

Dr. Julia McClure

Julia is a global historian of poverty and charity with a special focus on the early modern Iberian world and Spanish Americas. She is broadly interested in the roles played by law, institutions, and religion in projects of world-making and the emergence of legitimation of regimes of inequality.

Her first monograph, *The Franciscan Invention of the New World* (Palgrave, 2016), explored the Franciscans attempt to translate their local conception of poverty into a global project. This led to her second monograph, *The Poor Atlantic*, which explores the role of poverty and charity in the making of the Spanish Empire. Julia was also a lecturer in Global History at University of Warwick before becoming a lecturer at the University of Glasgow.



Never Enough: The Rights of the Poor in Historical Perspective

Abstract:

The dominant narrative in development studies sees global poverty as an issue that has emerged in the last fifty years, and analysis of the causes of and responses to poverty have often been focused upon the post-war era. The Universal Declaration of Human Rights (1948) has been seen as a threshold for global social justice as inalienable personal rights to basic living standards were codified in international law.

Recently, Samuel Moyn has highlighted the failure of the human rights movement to bring about global social justice or prevent the ongoing increases of inequality. While Moyn identifies the failure of the rights agenda to safeguard the poor and bring about social justice to be rooted in the historical specificities of the post-war era, this paper will show that the problematic relationship between poverty and rights has a far longer history.



Dr. Nita Mishra

Dr Nita Mishra is the National Coordinator of Academics Stand Against Poverty-Irish Network. Dr Mishra is currently a Research Fellow at Ireland India Institute, Dublin City University, and Tutor for International Development at University College Cork.

She teaches Gender and Development, Rights-Based Approaches, Food Policies, Ecofeminism, NGOs, and Governance. Her poetry speaks of lives of migrant women.

Operationalising Human Rights-Based Approach to Development: the chinks in the armour (The Anganwadi Workers and Helpers of India)

Abstract:

This paper examines the lived experience of grassroots duty-bearers, namely anganwadi workers (AWW) and anganwadi helpers (AWH), in their duty-bearing roles under the Integrated Child Development Services (ICDS), and its resultant impact on the operationalisation of human rights-based approaches (HRBA) to development. The broad objective of the paper is to direct attention to the limitations of the HRBA to development by highlighting that a clear demarcation between duty-bearers and rights-holders in the HRBA is not desirable because those who bear the responsibility of imparting duties of the state under a rights-based welfare program may also be rights-holders.

In this paper I have used the voices of anganwadi workers and helpers to describe their obligations under the ICDS services, innovative methods to operationalise the ICDS services, increasing workload, and collectivisation as a coping mechanism to deal with rising societal and state expectations from anganwadi-based services. The aim is to show that in specific circumstances, the competing and conflicting interests of poor women duty-bearers (AWCs and AWHs) puts them in an unenviable position as rights-holders with claims on the state for due entitlements. In such extenuating situations, poor duty-bearers question their obligations to others, and to the realisation of own rights to development which in turn impacts upon the implementation of a well-intentioned rights-based ICDS services.

Evidence from the field suggests that for a rights-based approach to development programs to succeed three conditions must be met. These are as follows. First, the needs and claims of duty-bearers at the village level must be addressed in policies. Secondly, a rights-based program must incorporate the practical and experiential knowledge of its grassroots duty-bearers in policy-making. Thirdly, findings show that respect played an important role in reaffirming human rights of grassroots duty-bearers thereby indicating its significance as an indicator of rights-based approaches to development.

Dr. Lonneke Peperkamp

Lonneke received her PhD from Radboud University Nijmegen, The Netherlands. Subsequently, she was visiting assistant professor at Hong Kong University (Politics and Public Administration), and is now back at Radboud University Nijmegen (Philosophy of Law) as assistant professor.

Her research interests are in the areas of war and political violence, just war theory, peace building, global distributive justice, human rights, and space ethics.



Claiming Subsistence Rights

Abstract:

Around 700 million people live in extreme poverty. They are deprived of the most basic human needs: food, safe drinking water, security, healthcare, and shelter. Global distributive justice is concerned with the distribution of burdens and benefits among the global population. The main question is: What should we (the 'rich') do to address this injustice? There is a large agreement on the claim that we must, indeed, aid the global poor. The situation however persists: these 700 million people do not have an adequate standard of living; their subsistence rights are not fulfilled. What demands attention, therefore, is not (only) the question of what 'we' should do to alleviate global poverty, but the flipside of that question: What can 'they' (the poor) do to secure the subsistence rights that they are entitled to?

This paper considers the most radical strategy to claim these rights - through the use of military force - by integrating global distributive justice and just war theory. The central question is: Could the global poor, suffering from a severe lack of means of subsistence, wage a just war against the global rich? Traditional just war theory is very restrictive with regard to the just causes for war, allowing self-defense against military aggression. Subsistence wars are no response to military aggression. And yet, 'revisionists' like Luban, Fabre, Lippert-Rasmussen, and Øverland are open to the permissibility of subsistence wars. This paper maps their arguments, shows that a defense of subsistence wars hangs on a specific account of global distributive justice, and explores various objections along two broad lines. It concludes that, despite the severity of the injustice, the global poor are not permitted to wage war to secure subsistence.



Ms. Leonie Smith

Leonie is a doctoral candidate in Philosophy at the University of Manchester.

Her PhD project – *Epistemic Exclusion, Resistance and Nudging* – has two goals: first, to identify and examine the epistemic, ontological and rights-based harms faced by economically-excluded social groups such as UK welfare claimants; and second, to investigate the permissibility and practicality of epistemic resistance from a position of oppression.

The inability of rights legislation to address UK poverty abuse

Abstract:

As a member of the United Nations, the UK government is required to submit periodic reports with regard to its continued implementation of the International Covenant on Economic, Social and Cultural Rights. In 2016 the UN investigative committee found the UK state to be in breach of this covenant in multiple ways, generating long-term, harmful poverty. Specifically, the authors drew attention to the role of UK Government austerity policies from 2010-2016 in facilitating and sustaining those breaches, finding that intentional government strategy had had the greatest negative impact on those who are most vulnerable (including children) within UK society. In concluding their executive summary the investigative committee advised that they were:

“... seriously concerned about the disproportionate, adverse impact that austerity measures introduced in 2010 are having on the enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups.” [ICESCR, 2016, p4, para18].

The austerity measures giving rise to this widespread poverty abuse had no discernible positive impact on the UK economy [Agostini et al, 2014], but were nevertheless well-supported by the general population of the UK [YouGov, 2013; British Social Attitudes survey, 33, 2017].

Regardless of whether or not one agrees with the measures taken by the UK during this period, the failure of international rights treaties to prevent widespread abuse within a presumably rights-oriented State, is troubling. In this paper, I propose that these facts are indicative of the existence of a severe form of epistemic injustice faced by those living in poverty in the UK: *epistemic exclusion*. Under specific conditions of material exclusion, this pervasive form of epistemic injustice, in which one is not treated as an epistemic subject, can thrive. I argue that those living in poverty within the UK met those conditions in the period examined, and in general, remain extremely vulnerable to it. Without addressing this underlying epistemic exclusion, rights legislation generally will be insufficient to actually protect some of our most vulnerable members of society.

Dr. Jesse Tomalty

Jesse Tomalty is Associate Professor in the Department of Philosophy, University of Bergen.

Her research focuses on conceptual and normative issues relating to global justice and human rights, and especially on socio-economic human rights. She has published articles on the human right to subsistence, remedial responsibility for global poverty, and the nature of human rights, among other topics. Her current research is looking at the human right to work, as well as individual duties in the face of global injustice.



Reflections on individual responsibility for global poverty

Abstract:

According to an influential view, the global rich have moral duties to alleviate extreme poverty worldwide on account of our capacity to do so (Singer 1972, 2009). This view (the capacity view) has been challenged on the grounds that it fails to fully account for the source of our moral duties towards the global poor. According to an alternative view, the global rich have moral duties to alleviate extreme poverty not simply because we can, but because we are complicit in its existence and perpetuation (the complicity view), or because we benefit from it (the benefit view) (Pogge 2008).

My main purpose in this paper is not to decide which of these views is correct. Instead, I am interested in the practical implications of each of these views for individuals among the global rich. If our duties to assist the poor are grounded in complicity or benefit rather than (or in addition to) capacity, what difference does this make for how we ought to act? I consider what practical difference the distinctions between these three views might make along various dimensions of duties including strength, stringency, specificity, and demandingness.

I conclude that while the distinctions may be theoretically important, the difference they make in practice is subtle, given certain facts about the contemporary world.



Prof. Wouter Vandenhole

Wouter Vandenhole is a human rights and law-and-development scholar. He holds the human rights chair and the UNICEF Chair in Children's Rights at the University of Antwerp. Between 2013 and 2018, he directed the Law and Development research group. He is now vice-dean of research at the Faculty of Law.

His research interests include children's rights, human rights, in particular economic, social and cultural rights, and the relationship between human rights law and development. For some years now, he has focused on transnational human rights obligations, i.e. the human rights obligations of new duty-bearers, and in particular on companies. More recently, he started to explore the conceptual implications of sustainable development for human rights law.

Planet or People? Sustainable Development and Redistribution

Abstract:

Natural scientists have identified ten planetary boundaries. Economists have argued that we are growth-addicted, and suggested a rather radical departure from assumptions of economic growth, such as zero-growth or even de-growth. Lawyers have so far not seriously engaged with planetary boundaries and growth agnosticism.

What does a radically different starting point of growth agnosticism mean for the conceptualisation of economic, social and cultural rights (ESC rights) and for the role of human rights in sustainable development? The realisation of ESC rights is premised on economic growth. Economic growth is expected to allow States to progressively realize ESC rights. Regressive measures can be justified in times of economic recession. Sustainable development is often captured in three 'Ps': Profit, People, Planet. Does the environmental objective (Planet) trump the social one (People)? Is the implication of growth agnosticism that we need to accept lower living standards, poverty or retrogressive measures in the area of ESC rights? People and Planet may be reconciled under conditions of growth agnosticism, provided that re-distribution is taken seriously. What has human rights law to say about re-distribution, domestically and globally?

Notes