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KEEPING HUMAN RIGHTS OUT OF POVERTY

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"Poverty is the absence of all human rights". This statement appeared on a tweet by the UN Human Rights office, @UNHumanRights, on 17 October 2018, to mark the International Day for the Eradication of Poverty. It is followed by a decisive claim from Nelson Mandela: "While poverty persists, there is no true freedom". The views expressed in this tweet are an accurate reflection of the beliefs of many scholars and commentators working on the connection between human rights and poverty. The global level of poverty is one of the most shocking and unjustified conditions in modern life. Poverty is also a human-generated problem, which makes it even more objectionable, both morally and politically. And yet, even though the extent of global poverty is something that needs to be addressed and condemned in the strongest possible terms, this paper will argue that there is something problematic about the claim that "poverty is the absence of all human rights".

Commented [AC1]: This seems like a very strong characterisation indeed…perhaps it is only me, but the word has a slightly pejorative feeling to it. Is there an alternative that is a bit less controversial?

Commented [BV2R1]: How about 'decisive claim'?

Commented [AC3R1]: Great!

The tweet by the UN Human Rights office was picked up on the same day and retweeted by John Tasioulas, one of the most respected scholars of human rights and international law, and a powerful advocate of moral realism and value pluralism. He added the following comment: "Poverty is not the absence of *all* human rights. The right not to be impoverished is one human right~~s~~ among others. You can be poor but have *some* of your human rights respected, such as the right not to be enslaved or tortured. Overblown rhetoric helps no one" (emphasis added). The point Tasioulas is making here is subtle but important. He does not object to the claim that poverty is a serious human rights violation~~,~~ ; in fact he endorses the view that we have a human right not to be impoverished. What Tasioulas has a problem with is the hyperbolic claim that inflates poverty to be the negation of all human rights. The problem lies with the

term 'all': according to Tasioulas being impoverished is the absence of *some* human rights, but not *all* human rights, since it is possible to be poor and still enjoy some human rights.

I think Tasioulas is right. I also think that it would be wrong to accuse him of being overly pedantic. Precision is the trademark of good philosophical analysis, and philosophers have a duty to be accurate in the views they hold, as reflected in the language they use. Imprecision is not just an issue of conceptual sloppiness, it is also potentially much more damaging than that, as it pushes philosophy away from its true calling, the pursuit of truth, towards the dangerous shores of demagoguery, hence Tasioulas's warning that "overblown rhetoric helps no one".

In this paper I want to go beyond Tasioulas's admonishment, and suggest that human rights are not the best instrument for addressing the problem of global poverty. There are four main parts to this paper. Part 1 will give a general overview of some of the main arguments in favour of addressing the question of poverty in terms of a human rights discourse, while Parts 2 and 3 will argue that the link between poverty and human rights is at best superfluous and at worse counterproductive to the advancement of human rights or to the fight against poverty. Part 4 will consider, but ultimately reject, the view that it is necessary to describe poverty in terms of a human rights violation since doing so switches the debate from ethics to international law, and this opens the door for possible solutions to the problem of poverty which would be precluded if questions of rights and their violation are confined to the moral sphere.

Commented [AC4]: This phrasing seemed slightly confusing…Perhaps rephrase along the following lines: "If questions of rights and their violation are confined to the moral sphere"?

Commented [BV5R4]: Agreed.

1. THE HUMAN RIGHT TO SUBSISTENCE

The popular view that poverty is a human rights violation logically rests on the validity of a more basic assumption: namely, that all human beings have a basic right to subsistence. Proving the validity of this basic assumption has troubled philosophers for a long time, and a great deal of work has gone into showing exactly what we mean by the human right to subsistence, and why subsistence qualifies as a human right.

There are two dominant ways in which philosophers have attempted to establish the human right to subsistence: the Fundamental Interest Approach

and the Linkage Argument.[1] According to the Fundamental Interest Approach, human rights exist to protect our fundamental interests, and since subsistence is a fundamental interest, it follows that we have a human right to subsistence. There are many influential philosophers who gravitate towards this position, including James Griffin, John Tasioulas and Charles Beitz.[2] There is then the Linkage Argument, which states that some human rights must be recognized because, without them, all other human rights would not exist. Subsistence is a case in point: unless subsistence rights are provided, people in extreme poverty will continue to be marginalised from the enjoyment of all their other rights. Henry Shue is the philosopher generally accredited for spelling out and defending this line of argument,[3] which is also endorsed, with minor adjustments, by James Nickel and Elizabeth Ashford,[4] although in my view HLA Hart in his 1955 essay 'Are There Any Natural Rights?' was one of the earliest exponents of the Linkage Argument: "freedom (the absence of coercion) can be *valueless* to those victims of unrestricted competition too poor to make use of it; so it will be pedantic to point out to them that though starving they are free".[5]

The Influential Interest Approach and the Linkage Argument are both very popular and influential in the literature on global poverty, but both theories have their limitations. Four objections stand out in the literature: First, there is the *overreaching objection,* according to which establishing an interest is different from establishing a rights, since I do not have a right to all my interests, not even to all my fundamental interests. As Joseph Raz points out, the love of my children might be what I value most in the world, and therefore my most

[1] These are not the only arguments of course, but in my view they are the most prominent in the literature, and the most philosophically sophisticated.
[2] James Griffin, *On Human Rights* (Oxford University Press 2008); John Tasioulas, 'The Moral Reality of Human Rights' in Thomas Pogge (ed) *Freedom From Poverty as a Human Right: Who Owes What to the Very Poor?* Co-Published with Unesco (Oxford University Press 2007) and Charles Beitz, *The Idea of Human Rights* (Oxford University Press 2009).
[3] Henry Shue, *Basic Rights* (2nd edn, Princeton University Press 1996).

[4] James Nickel, *Making Sense of Human Rights* (2nd edn, Blackwell 2007); Elizabeth Ashford, 'The Alleged Dichotomy Between Positive and Negative Rights and Duties' in Charles R. Beitz and Robert E.Goodin (eds) *Global Basic Rights* (Oxford University Press 2009).
[5] HLA Hart, 'Are There Any Natural Rights?' in J.L.Coleman (ed) *Readings in the Philosophy of Law* (Garland Publishing 1999, 175n2).

fundamental interest, and yet I do not have the right to be loved by my children.[6] Then there is the Maurice Cranston's *feasibility objection*, which states that social rights are not proper human rights since they are not feasible. According to Cranston (1973), all authentic human rights must pass a practicability test, and this is where social rights in general, including the right to subsistence, fall short: "if something is not possible to be done, then it is absurd to claim it as a right".[7] Thirdly there is the *claimability objection*, put forward by Onora O'Neill (2000), according to which being a positive right, a right to subsistence is not just not feasible but it is also not claimable, and if a right is not claimable, it is not a genuine right.[8] Finally, there is what I will call the *non-inherently necessary objection*: the enjoyment of subsistence rights cannot be, *contra* Henry Shue, 'inherently necessary' for the enjoyment of all other rights, since a person retains some rights (for example not to be tortured) even if this person does not have the means for subsistence.[9] Tasioulas's remarks at the start of this article fall under this objection.

Commented [AC6]: Could you briefly add in why Cranston considers them to be unfeasible? Also, I think Cranston is a lawyer…does he mean morally/philosophically unfeasible, or unfeasible as legal claims?

Commented [BV7R6]: I added a sentence to explain Cranson's position. He was a political theorist, best known for his work on Rousseau, including a three volume biography of Rousseau. But he wrote a still influential book on human rights in 1973.

Commented [AC8R6]: Great – thanks!

For many years now philosophers have been engaged in the slow but necessary process of painstakingly debating the strengths and weaknesses of the Fundamental Interest Approach and the Linkage Argument, in light of the four objections listed above, but not everyone seems to notice, or show interest in what is coming out in philosophy journals on this important set of questions. In fact, much of the wider inter-disciplinary literature on human rights and poverty, and particularly the legal literature, appears to stem from a collective decision to by-pass this particular philosophical minefield, and conveniently to carry on as if what the philosophers are arguing is inconsequential.

[6] Joseph Raz, 'Human Rights Without Foundations' in S. Besson and J. Tasioulas (eds) *Philosophy of International Law* (Oxford University Press 2010).
[7] Maurice Cranston, *What Are Human Rights?* (Bodley Head 1973).
[8] Onora O'Neill, *Bounds of Justice* (Cambridge University Press 2000).
[9] Due to space restrictions I will not analyse these four objections in any detail, nor will I give a detailed account of the Essential Interest Approach or the Linkage Argument. For an overview of these two positions, including their perceived potential weaknesses, see Jesse Tomalty, 'The Link Between Subsistence and Human Rights', in T.Brooks (ed) *The Oxford Handbook of Global Justice* (Oxford University Press (forthcoming)). I will return to Tomalty's important contribution to this debate in Part 4 below.

That poverty is a human rights issue is so obvious to many scholars, activists and commentators on poverty that the argument is often simply assumed rather than argued. It is taken to be a fact beyond dispute that poverty threatens one's subsistence, which is sufficient to make alleviation of poverty the focus of a human rights to subsistence. When we read about a human right to food,[10] or a human right to water,[11] or when the UN proclaims that we have a human right to sanitation,[12] the premises of all these arguments are often merely stated and assumed to be self-evidently correct, not fully justified or defended. At best, some passing references to either the Fundamental Interest Approach or the Linkage Argument are made, but never to the problems these positions face. Instead their arguments follow what would appear to be a straightforward syllogism:

Premise 1: We have a human right to subsistence.

Premise 2: Inadequate food and access to clean water is a threat to human subsistence.

Therefore: 3. We have a human right to food and access to clean water.

Premise 2 is straightforward, and unproblematic. But the strength of this type of argument rests on the plausibility of Premise 1, which is much more controversial than it may appear at first. By merely assuming the validity of Premise 1, all logical and conceptual headaches are swept under the carpet. Strategically there are good reasons for assuming the validity of Premise 1, denouncing poverty as a human rights violation adds rhetorical force to the fight against poverty, hence the human rights framework is used to draw our attention to the urgency to the plight of millions, if not billions, of people in the world today, putting pressure on governments to do something about it.

I'm not persuaded by the wisdom of this strategy, and in what follows I will aim to expose all the risks associated with making this rhetorical move. I will argue that this widely used technique of appealing to human rights for the sake

Commented [AC9]: Is arguing that poverty is a human rights *issue* the same as trying to ground a human right to subsistence?

Commented [BV10R9]: I'm suggesting that they are, but I see your point. However, for the sake of brevity, I'm inclined to leave it as it is. I did change the next sentence, however, to make it more clear.

Commented [AC11R9]: This works well.

Commented [AC12]: Fundamental interest in? (You appear to have jumped from a generalised agreement that poverty/lack of subsistence is a human rights issue, to a generalised agreement that there is a human right to subsistence that grounds other specific, legally enforceable rights to food and water. If the legitimacy of the general human right to subsistence is generally recognised, why do you need specific rights to food and water?

Commented [BV13R12]: I go on to question Premise 1. Also, this syllogism goes from the general (human right to subsistence) to the particular (human right to food/water). The specific issues in Premise 2 are explained/justified by the general claim of premise 1. I would leave it as it is.

Commented [AC14R12]: I understand your reasoning – ok, great!

[10] Sandra Raponi, 'A Defense of the Human Right to Adequate Food', *Res Publica, 23*(1), 2017, 1-17.

[11] Barbara Bleisch, 'The Human Right to Water—Normative Foundations and Ethical Implications', *Ethics and Economics*, 4 (2), 1–23.

[12] Resolution A/RES/64/292. United Nations General Assembly, July 2010.

of raising awareness about the plight of global poverty is highly suspect, since it relies on the force of rhetoric above rationality to establish the correlation between poverty and human rights. At one level this strategy can be very persuasive, but it tends to preach to the converted, while those who resist it can use it to turn the argument against human rights discourse in general, and to the fight against poverty in particular.

2. SUPERFLUOUS

There are many different ways of expressing the moral condemnation of poverty. To start with, one could simply say:

i) Poverty is wrong.

Here poverty is assessed in terms of accounts of 'wrongness'. One obvious problem here is that the moral category of 'wrongness' is very broad, and vague, since 'wrongness' can take many different forms, depending on one's preferred moral outlook: i.e. whether the outlook is duty based (Kantian); aimed at maximising average utility (utilitarian); grounded on character traits that yield good (virtue); founded on individual rational and reasonable agreement (contractualism), etc. Which is why we may want to be more specific about what exactly makes poverty morally wrong. Hence we could say:

ii) Poverty is wrong, and an injustice.

Adding a reference to injustice helps us to have a better grasp of the wrongness of poverty. Here injustice refers to 'social injustice', which is strictly a distributive claim. Also, following John Rawls, we may want to think of injustice in terms of the basic structure of society, that is to say the way economic, political and social institutions operate to secure that everyone is free and equal. Adding 'and an injustice' shifts the analysis from the broader idea of moral wrongness, which includes individual behaviour, to more structural issues, including laws and norms. Of course there are many different conceptions of 'injustice', nevertheless even though 'wrongness' and 'injustice' are cut from the same cloth, an injustice covers a much narrower and more specific area than wrongness.

But it doesn't stop here. We are told that we can go even further, by also including a reference to human rights, thus:

Commented [AC15]: For the philosophically uninitiated, would it be possible to offer a couple of adjectives in brackets to define these different perspectives? I.e. Kantian (duty-based), utilitarian (what is good for the majority)…and then you could add a footnote emphasising that these are very crudely drawn due to the word count, but that you want to given an indication for the sake of non-subject specialist readers?

Commented [BV16R15]: I added a few words to explain the moral theories

Commented [AC17R15]: Thanks Vittorio. I have suggested a little addition here for the purposes of further clarity. What do you think?

Commented [BV18R15]: Perfect.

iii) Poverty is wrong, and an injustice, and a human rights violation

Perhaps this small step from injustice to human rights is only to be expected, after all as Jim Nickel told us in the very first sentence of the first paragraph of the first page of his very influential book on human rights: "when governments do cruel and unjust things to their citizens we are now likely to describe those actions as violations of human rights – instead of saying simply that they are unjust, immoral, tyrannical or barbaric".[13] Not surprisingly most of the literature on human rights and poverty assumes that there is nothing harmful to reinforce the message of the wrongness and injustice of poverty by adding a reference to human rights, for good measure.

I believe this is a mistake, and this added layer of condemnation of poverty may in fact do more harm than good to the cause.[14] The problem is that 'and a human rights violation' in (iii) above does not add anything to what we already know about poverty, since the first part of the sentence 'poverty is wrong, and an injustice' already says everything we need to know, and to tack on 'and a human right violation' is redundant. In other words, after establishing that poverty is wrong, and that poverty is an injustice, to add that poverty is also a human rights violation is superfluous.

The superfluosity of 'and a human rights violation' in the sentence 'poverty is wrong, and an injustice, and a human rights violation' can be explained by way of comparing this recent development in the literature on poverty and human rights to a well-known dispute in the philosophical literature on truth.[15]

The deflationist school of thought has made a strong case for the superfluosity of truth, on the grounds that the word 'truth' contributes nothing to the sense of the sentence in which it occurs as a predicate. As Gottlob Frege famously

[13] Nickel *Making Sense* (n.4), p.1.

[14] On the importance of distinguishing social justice from human rights, see Saladin Meckled-Garcia, 'Human Rights or Social Justice? Rescuing human rights from the outcomes view', *UCL School of Public Policy Working Paper Series*, Working Paper 30, 2011.

[15] In Vittorio Bufacchi, 'The Truth About Rights' *Journal of Human Rights* 7(4), 2008, pp.311-326, I have argued that we can learn something new about human rights by comparing and correlating theories of human rights with theories of truth, and in Vittorio Bufacchi, 'Theoretical Foundations for Human Rights' *Political Studies*, 66(3), 2018, pp.601–617 I go as far as to suggest that we should embrace a deflationary stand regarding human rights akin to deflationary theories of truth.

stated, 'is true' indicates merely the force of the assertion, and when people add 'that's true' to an assertion, they seem to do little more than endorse the assertion. A.J. Ayer agrees with Frege. According to Ayer, if we analyse statements of truth, we find that in all sentences of the form 'x is true', the phrase 'is true' is logically superfluous. For example, Ayer argues that adding 'is true' at the end of the proposition 'Queen Anne is dead' is superfluous, since all that one is saying is that Queen Anne is dead.[16]

I believe the same analysis applies for the proposition 'Poverty is wrong, and an injustice'. Adding 'and a human rights violation' to this proposition is superfluous, since all that one is saying is that poverty is wrong, and an injustice. Adding 'and a human rights violation' contributes nothing to the sentence, apart from indicating the force of the endorsement of the assertion.

What we can take from Frege's and Ayer's analysis of truth is that the predicate 'is true' has no substance but only at best rhetorical force. If 'and a human rights violation' performs the same function as 'is true' in a proposition, this begs the question whether analysing a social problem through human rights lenses merely adds rhetorical conviction to one's sets of beliefs. This may appear to be trivial, but in fact there is a great deal at stake here.

Some advocates of human rights will be uncomfortable with this way of thinking about the nature and use of human rights discourse, since suggesting that human rights is merely rhetoric takes away from the value of human rights. Others may be less bothered by it, and are happy for human rights to be used in any way that helps in the fight against poverty, even if it means employing human rights as a rhetorical instrument. It is the latter position that we need to consider next.

3. COUNTER-PRODUCTIVE

Let's go back to our proposition:

iii) Poverty is wrong, and an injustice, and a human rights violation.

Commented [AC19]: For a lawyer this is different, as it suggests that poverty should ground actionable legal claims that can be used to hold States to account for failures to avoid the violation…of course, poverty is NOT a legally recognised human right, but, from the legal perspective, adding this to the sentence imports a sense that poverty is wrong, an injustice, and a state of affairs that can ground legal claims against the State. I suspect you deal with this later on, but I wanted to flag that lawyers made read it differently.

Commented [BV20R19]: Point taken, but this is precisely the point. It is not only states but also the international community that is held to account for failure to avoid the violation.

Commented [AC21R19]: Fair enough.

[16] Gottlob Frege, 'Thoughts', in his *Logical Investigations* (Blackwell 1977); AJ Ayer, 'The Criterion of Truth', *Analysis*, 3, 1935, pp.28–32.

One could argue that even if we were to concede that the last part of this proposition 'and a human rights violation' is logically superfluous, since it does not add anything new to what we already know about poverty (namely, that it is wrong and an injustice), it is still worth tagging human rights along since it is important to stress the moral seriousness of the injustice of poverty. To say that something is not just 'wrong' or 'an injustice', but also 'a human rights violation' makes people sit up and listen: we may be ambiguous about the category of wrongness, and perhaps even injustice, concepts that may be dismissed as merely reflecting a subjective stance, but to accuse something of a human rights violation is different, since human rights enjoy almost unanimous consent, the closest thing we have on a global scale to a universal panacea, and no-one wants to be seen to be against human rights. If human rights can motivate people to take poverty seriously, it makes sense to claim that poverty is a human rights violation, even if human rights here are used only as a rhetorical move.

In order to see what is potentially problematic about this line of argument, it may be instructive to compare this debate about 'poverty as the absence of human rights' with another debate on poverty, from the 1990s, where poverty was accused of being an act of violence.

There have been a number of authors over the years who defend a broad conception of violence, whereby violence is any avoidable action which prevents the fulfilment of a basic human need.[17] More recently Jamil Salmi and Steven Lee have pressed the point that misery and destitution is not only an issue of injustice, but also an act of violence.[18] In particular, Lee has defended the strategy of raising our awareness of the evils of the injustice of poverty by invoking the terminology of violence:

> "The term 'violence' is a very important term of moral evaluation, specifically, or moral condemnation, so to fail to extend it to the harms of social order would be to fail to recognize their moral seriousness, their

[17] See Johan Galtung, 'Violence, Peace and Peace Research', *Journal of Peace Research*, 3, 1969; Newton Garver, 'What Violence Is', in AK Bierman and JA Gould (eds) *Philosophy for a New Generation*, (2nd edn, Macmillan 1973). For an analysis of the difference between a narrow and a broad conception of violence, see Vittorio Bufacchi, *Violence and Social Justice* (Palgrave 2007).

[18] Jamil Salmi, *Violence and Democratic Society* (Zed Books, 1993) and Steven Lee, 'Poverty and Violence' *Social Theory and Practice*, 22(1) 1996.

moral continuity with the harms of social disorder". Lee goes on to say that there is no difference between the actions of a criminal, and those of an unjust social order that generates so much poverty: "Both the outlaw and the maintainer of an unjust status quo are capable of great moral wrongs, and we should not let this point be obscured by reserving the strongest condemnatory language for only one of them".[19]

Lee is seeking the 'strongest condemnatory language' to expose everything that is wrong about poverty, and he does not seem to be bothered by the fact that he is using the terminology of 'violence' merely to score a rhetorical point. But he should be. The inappropriate use of the term 'violence' to describe an injustice gives rise to conceptual confusion, which may be counterproductive to the cause of fighting injustice. The same applies for those who may be tempted to raise our awareness of the evils of the injustice of poverty by invoking the terminology of human rights. There are three main potential risks with the strategy of denouncing the injustice of poverty by using the strongest possible condemnatory language of 'human rights violations'.

Commented [AC22]: Are they just invoking the terminology, or are they pointing to an effective social apparatus that could be trained on the issue to address it? (Just offering a bit of a critical pushback here)

Commented [BV23R22]: Point taken. As my point is about rhetoric, I argue that the use of the human rights terminology is merely for the sake of persuasion and motivation.

Commented [AC24R22]: Ok great.

First, we are diverting our attention away from the wrongness and injustice of poverty, and in the process providing a solution (human rights) that does not fit, or fix, the problem. By making poverty a human rights issue, the risk is that people may dismiss the injustice of poverty by pointing to the fact that poverty is not a human rights violation. For example they might do this by arguing that human rights apply only to first-generation civil and political rights, not to second-generation social, economic and cultural rights, and since poverty is a social and economic issue, it is not a human right. The point here is not whether or not this argument is valid; personally I think it is not, and second-generation human rights are as important as first-generation human rights, but that is not the point. The risk is that the rhetorical move of accusing poverty of being a human rights violation may give ammunition to those who want to maintain the status quo.

Commented [AC25]: Well argued.

Commented [BV26R25]: Thank you.

Secondly, the validity and significance of human rights risks losing force if human rights apply to an ever-expanding range of issues. This is a variation of the well-known problem of human rights inflation. As we broaden the range of

[19] Lee 'Poverty and Violence' (n.17), p.78.

human rights violations, the less informative the accusation of human rights violations becomes, and with the proliferation of human rights we risk that the very currency of human rights loses value. The onus is on those who argue that poverty is a human rights violation to explain why it is not sufficient to say that poverty is wrong, and an injustice. They need to tell us what we gain by adding that poverty is a human rights violation. Doing this merely as a rhetorical move to raise awareness to the problem of poverty may not be enough.

Thirdly, there is the risk that by linking poverty to a human rights violation harms the culture of human rights. We might call this the *Inevitability Objection*. Some people believe that inequality and poverty are an unavoidable, constant feature of human history, and as such they cannot be eradicated. At best we can try to ameliorate the conditions of some living in poverty, and perhaps reduce the number of people living in extreme poverty, but poverty itself will always be with us. This belief may misguided, and perhaps even factually inaccurate, but that is beside the point. What matters is that some people hold this belief. In which case, if we start to refer to poverty as a human rights violation, then the *Inevitability Objection* rubs off to human rights violations: like poverty, human rights violations are simply inevitable, an inescapable feature of human society. That makes human rights nothing more than a noble aspiration, but otherwise irrelevant to us.

4. Poverty as a Legal Concern

So far I have argued that if we consider the proposition 'Poverty is wrong, and an injustice, and a human rights violation', the last part of this sentence is superfluous and counterproductive, hence we can do without it altogether. But of course many would not agree with this analysis, since they believe that the human rights framework add something important that is not captured by the moral language of 'wrongness' or 'injustice'. To be precise, introducing human rights in the mix switches the focus of our discussion away from ethics towards domestic and international law, and this can be a game-changer for the way we think of poverty. This is an important objection to what I have argued so far, and it has to be taken seriously. Nevertheless, I think this objection can be refuted.

Leaving aside the fact that the jury is still out on whether we can think of human rights merely as an instrument of international law separate and independent

Commented [AC27]: I see you are addressing the points I made above…

Commented [BV28R27]: Yes.

Commented [AC29]: Human rights are also protected in domestic and regional law.

Commented [BV30R29]: Yes, I added domestic and international law (I'm assuming that regional law falls under domestic law).

Commented [AC31R29]: Splendid.

from moral and political philosophy, and ~~that in any way it is not to be~~whether it is? advisable or recommended to empower unelected judges by shifting decision making powers on human rights matters from legislatures to courts, there is an issue whether ~~even~~ a more legalistic approach to human rights ~~is not~~might possibly be immune to the accusation of being mere rhetoric~~.~~?

In one of the more insightful articles on the debate between poverty and human rights, Jesse Tomalty starts by reminding us of the crucial distinction in the literature on human rights between the more theoretical, morally imbued approach, Moral Human Rights (MHRs), and the more institutional, legally binding approach, Legal Human Rights (LHRs). She then considers some serious objections to the claim that poverty is a human rights violation, suggesting in particular that the Linkage Argument – the idea that some basic rights are justified if their realization is necessary for the realization of other rights - faces objections that cannot be easily overcome. But Tomalty believes that not all is lost. While the Linkage Argument is on shaky grounds in terms of MHRs, it fares much better in terms of LHRs: "While the linkage argument ..... does not succeed in vindicating the MHR to subsistence, [a] modified version [of the linkage argument] provides a strong case in support of the inclusion of a right to subsistence among LHRs".[20]

But then Tomalty considers the following counter-argument to her own position. Could it be that this argument in support of an LHR to subsistence is actually superfluous? Is there not the risk that the inclusion of a corresponding LHR given the tremendous importance of this interest amounts to preaching to the choir? Tomalty deals with this hypothetical objection in the following terms: "But preaching to the choir need not be superfluous. We all occasionally need to be reminded of our commitments and to have their implications pointed out. Even where the LHR to subsistence and other socio-economic LHRs are affirmed,

Commented [AC32]: This is only the case under legal perspectives on human rights that fixate on justiciability. Another major component of the international human rights apparatus is reporting on human rights to the Human Rights Council, and arguments that are made that government policies must be rights-respecting. I think you are oversimplifying the legal dimensions of rights protection somewhat here, although I am ultimately sympathetic to the critique.

Commented [BV33R32]: I agree, but I don't have the space to go into this in any detail. I'm taking a short-cut.

Commented [AC34R32]: Ok – fair enough!

Commented [BV35R32]:

Commented [SE36]: I hope I am not changing the sense of the sentence here – it makes more sense to me this way though….

Commented [BV37R36]: Yes, that's fine.

Commented [AC38]: I would restate the Linkage Argument in one sentence here, just to help the reader.I.e. the Linkage Argument—the argument that x y x—

Commented [BV39R38]: Yes, good point

[20] Tomalty 'Link Between Subsistence and Human Rights' (n.9), p.16. To be precise, Tomalty defends a revised version of the linkage argument as put forward by Shue and Ashford. One of the premises of the original linkage argument states that:

> If there is an MHR to y, and the enjoyment of x is necessary to the enjoyment of y, then there is an MHR to x (the transitivity principle)

While according to Tomalty's revised version of the argument, the premise reads:

> If there is an MHR to y, and the enjoyment of x is necessary to the enjoyment of y, then there ought to be a LHR to x

Tomalty's revision is necessary to overcome the claimability objection.

their importance tends to be downplayed in relation to that of civil and political LHRs. The modified version of the linkage argument is a powerful reminder of the inefficiency of efforts to promote the latter without also working to promote the former".[21] If this is the best argument we have for a~~n~~ LHR to subsistence, then I start to worry. We are back to rhetoric. In the last analysis, it seems that we cannot get away from the claim that linking poverty to human rights is nothing more than a rhetorical move, something we need to do to reinforce our disapproval of poverty, to persuade people of the evil of poverty. We are told that every trick in the book should be used, every strategy should be employed, and if people need to hear that poverty is a human rights abuse in order for them to do something about it, so be it. ~~I'm~~ I am uncomfortable with this approach, for all the reasons I mentioned in parts 2 and 3 above. We are doing a disservice to human rights by treating the idea of human rights as merely a rhetorical tool~~,~~. I~~i~~n fact by appealing to human rights when it is not necessary, we risk devaluing a powerful moral and legal instrument at our own peril. As Tasioulas rightly reminds us, "although resort to the language of human rights gives these assertions extra rhetorical force, the strategy neglects the vital difference between what benefits another, and what is owed to them".[22]

The growing culture and acceptance of human rights is one of the most important developments in human affairs and global politics since WW2. The Universal Declaration of Human Rights has changed everything, and progress has been made since 1948, although in small steps. The frustration that progress on the human rights front is painstakingly slow, and not uniform in its application, being still beyond ~~the~~ reach in many areas, is one of the reasons why those who believe in human rights are keen to apply this medicine to all the economic, social, and political ills in the world. But although I commend their intentions, I fear that they may be unwittingly doing human rights a disservice. Misnaming the disease can lead to the use of the wrong medicine, or in the worst case none at all. We need the concept of human rights, and we must protect the culture of human rights, but in order to do so we need to avoid the traps set by the overreaching objection, the feasibility objection, the claimability objection, and the non-inherently necessary objection. We must restrict the

Commented [AC40]: Provide full title

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[21] Ibid.

[22] John Tasioulas, 'Are Human Rights Taking Over the Space once Occupied by Politics?' *New Statesman*, 26 August 2019.

appeal to human rights only when faced with issues that are so grave, so tragic, and so threatening that international interference with state-sovereignty becomes a moral imperative. This is not the case with poverty. Poverty must be overcome, prevented, and eradicated, but appealing to human rights may not be the best way to do so.

5. CONCLUSION

This paper challenges the received view on poverty and human rights. I argue that human rights may not be the best currency for addressing issues of poverty, and using the human rights framework to shed light on the wrongness and injustice poverty is not just superfluous, but may even be potentially counter-productive. More specifically I argue that the denunciation of poverty as a human rights violation risks being nothing more than a mere rhetorical move, which by virtue of its inflationary pressure risks weakening the culture of human rights. Every time the human rights abuse of enduring poverty goes unpunished, as almost inevitably it will, we face the collateral damage that the limited impact of human rights practice will have been fully exposed, which gradually undermines the faith and resolve people have ~~on~~ in the idea of human rights.

Commented [AC42]: This sentence doesn't quite make sense…

Commented [BV43R42]: I have rewritten the sentence

Commented [AC44R42]: Great - thanks

Commented [AC45]: Is this an argument against all socio-economic rights?

Commented [BV46R45]: Good point. I don't want to say that this is an argument against 'all' socio-economic rights, but it is an argument against 'some' socio-economic rights. But it would take too long to distinguish between all the socio-economic rights, and that is beyond the scope of this chapter. This chapter is specifically about poverty, so I'm going to stick to poverty and not make a claim about all socio-economic rights.

Commented [AC47]: Fought, as though it is an enemy? Or not created?

Commented [BV48R47]: I changed the sentence, no more fighting talk.

Commented [AC49R47]: Super