‘Equality Can’t Wait’: Challenging Inequality in and through the International Human Rights System

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This Article will explore the structural inequality between civil and political rights and economic, social and cultural rights. It will explore the asymmetry that stifles the radical origins and potential of international human rights laws, particularly with regard to access to civil society actors. With investigation into austerity measures and increasing poverty in the UK, this Article demonstrates examples of civil society actors countervailing institutional power. Participation and Practice in Rights (PPR) supports people who have had their human rights violated to can hold the Northern Irish and British government accountable to their international human rights obligations by using the international human rights mechanisms.

‘We speak of people possessing “universal human rights” usually in those contexts where the people have, in fact, no rights and no way to assert rights.’¹

‘There’s really no such thing as the “voiceless”. There are only the deliberately silenced, or the preferably unheard.’²

I. INTRODUCTION

Article 1 of the Universal Declaration of Human Rights (UDHR) states: ‘All human beings are born free and equal in dignity and rights.’³ All subsequent

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instruments of international human rights law enshrine equality and dignity as their premise.\textsuperscript{4} This foundational document was drawn up in the wake of two world wars, asserting its primary aim as the ‘creation of a harmonious and just society’.\textsuperscript{5} However, following the release of Oxfam’s 2015 Extreme Inequality Report, it is clear that this objective remains elusive. The richest one per cent of people in the world own 48 per cent of global wealth, whilst the remaining 52 per cent is dominated by the next richest 20 per cent. This means that 80 per cent of the world’s population owns only 5.5 per cent of global wealth.\textsuperscript{6} This rate of increasing inequality will see the richest one per cent and the remaining 99 per cent hold equal shares of global wealth distribution in 2015. Similarly as staggering have been the changes in the size and composition of this one per cent; between 2010 and 2014, the proprietors of the said one per cent have reduced in number from 388 to 80 individuals.\textsuperscript{7} As Costas Douzinas stated in 2000, ‘[a]t no point in history has there been a greater gap between the poor and the rich in the Western world and between the north and the south globally’.\textsuperscript{8} After a temporary interruption of this inequality, largely due to the 2008 global financial crisis,\textsuperscript{9} it is clear that we have returned to this situation of gross inequality in wealth distribution. Almost 70 years after the adoption of the UDHR, global inequality has reached its highest rate yet, notwithstanding that we are in a position where we have the resources to eradicate world poverty. As Pogge observes, ‘[n]ever has poverty been so easily avoidable’.\textsuperscript{10} Yet the goal of poverty eradication is nowhere near being realised. Faced with this stark reality, we really need to ask ourselves some important – and uncomfortable – questions. Is the current international human rights system working? Or rather, who is the system working for?

II. REFRAMING THE DEBATE

Drawing on the work of critical legal scholars, I will analyse how the development of the international human rights system has stifled the radical

\begin{footnotesize}
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\item Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art 1.
\item For a list of treaties, see ‘The Core International Human Rights Instruments and Their Monitoring Bodies’ (United Nations Human Rights Office of the High Commissioner) <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx> accessed 17 April 2015.
\item Ilias Bantekas and Lutz Oette, International Human Rights Law and Practice (CUP 2013) 12.
\item Oxfam, Wealth: Having It All and Wanting More (Oxfam Issue Briefing, January 2015) 2.
\item ibid 3.
\item Costas Douzinas, The End of Human Rights (Hart Publishing 2000) 2.
\item Oxfam (n 3).
\item Thomas Pogge, ‘Poverty and Human Rights’ in Rhona KM Smith and Christian Van den Anker (eds), The Essentials of Human Rights (Hodder Arnold 2005).
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potential of human rights law. By returning to the foundational questions relating to the international human rights system, namely the horizontal claims of international and human rights law, I will address the hierarchy of civil and political (CP) rights over economic, social and cultural (ESC) rights. My argument is that this hierarchy has created a paradoxical structure. How can human rights claim equality for all peoples when the implementation of those rights is itself unequal? While there is no formal hierarchy between CP and ESC rights, Theodor Meron wrote in 1986 that:

The increasing use of hierarchical terminology in international human rights merits attention. In addition to its conceptual interest, this development is of practical importance in resolving conflicts between norms... [as well as] the significance and implications of the trend towards a graduated normativity in international human rights.

My approach will not be to formulate an idealised structure of institutional justice, but rather to consider possible changes to the current system. This Article will examine examples of such changes both from within and outside of the United Nations (UN) which have challenged, and demonstrated improvements to, the ways in which the international human rights system is utilised. This approach is supported by Amartya Sen’s work on the ‘dual role of the institutions and behaviour’, where he explores why ‘a realistic reading of behavioural norms and regularities becomes important for the choice of institutions and the pursuit of justice’. By looking to the institution itself, as well as the outcomes of its operation, we can assess its level of success in the promotion of justice and human rights. As Sen argues, setting up an institution in the pursuit of justice is not enough; the methods employed by the institution in its attempt to achieve this objective, as well as the improvements that it has developed in conjunction with the changing realities of the world it services, are equally important.

There are increasing efforts to diminish the domination that CP rights exert over ESC rights through challenges from within the international human rights system and grassroots movements. To use Sen’s words, this Article is an assessment of and contribution to the democratic countervailing of institutional

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11 Collective rights are outside the scope of this Article.
12 Theodor Meron, ‘On a Hierarchy of International Human Rights’ (1986) 80 American Journal of International Law 1, 3.
14 ibid 81.
15 ibid 80.
power. I seek to do this by exploring examples and potential means of challenging inequality within the current international human rights structure. I explore the extent to which this structure has been effective in the context of the United Kingdom through a case study of Participation and the Practice of Rights (PPR), a non-governmental organisation (NGO) based in Northern Ireland which tackles inequality, dignity and discrimination through the championing of ESC rights. I shall highlight how the strengthening of human rights and inequality discourses has been reflected in a reassertion of state responsibility in the eradication of inequality under international human rights law. This duality of human rights protection and inequality eradication has been developed through improvements in the understanding of poverty. Moreover, although the link between the two is often obscured, both have been interconnected since the inception of international human rights. ‘Freedom from want’ – as articulated in the preamble of the UDHR, the International Covenant of Political and Civil Rights (ICPCR), and the International Covenant of Economic, Social and Cultural Rights (ICESCR) and its Optional Protocols – essentially correlates to freedom from poverty. Much work is being done to strengthen this partnership. The publication of the ‘Poverty, Inequality and Human Rights: Do Human Rights Make a Difference?’ report was a step taken to clarify understandings of inequality and poverty through a human rights lens within the UK. As explained in the report’s methodology:

Using human rights entails a shift from needs to socially and legally guaranteed entitlements and from charity to duty. Human rights invite analysis of the structural causes of poverty, rather than only its symptoms, and of the impact of governmental action or inaction on communities experiencing poverty.

The reassertion of equality and freedom from poverty as human rights draws attention to the state’s legal responsibilities and obligations, as the bearer of the duty to respect (refrain from interference), protect (prevent third parties from interfering), and fulfil (facilitate access through domestic governance, or a direct

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16 ibid 81.
duty to provide if person is unable to themselves)\(^{19}\) the human rights of its citizens as rights-holders. It also allows for investigations into the structural violence that causes human rights abuses; ‘as the cause of the difference between the potential and the actual, between what could have been and what is.’\(^{20}\) Sen’s approach lends itself well to understanding inequality and poverty in terms of opportunities and choices, or ‘freedom to achieve... rather than actual achievements’, much like human rights.\(^{21}\) The discussion around poverty and inequality is often placed within the political and moral spheres. In such discussions, the paternalistic language of helping those less fortunate is employed, as opposed to that of how and why some people are more or less fortunate – namely, the discriminatory and unequal distribution of and access to resources. This rhetoric of bestowing charity upon the deserving – or, conversely, denying it to the undeserving – strips away the universality of human rights and constitutes an obstacle to states acknowledging their international legal obligations in the realisation of economic, social and cultural rights for all.

III. BREAKING DOWN DIFFERENCES

The UDHR crystallised into binding international law in the form of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), over a decade after its inception. By 1966, the universalistic and egalitarian approach to human rights was undermined. A hierarchy between the two Covenants had developed, with each imposing a different set of immediate obligations upon states. This hierarchy is evident both linguistically and interpretatively. While states must ‘respect and... ensure’\(^{22}\) the rights within the ICCPR, the ICESCR requires a state to:

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\text{take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means.}^{23}\]

\(^{19}\) Bantekas and Oette (n 5) 371; Salil Shetty, ‘Putting Rights Back Together Again’ (6 December 2012) <http://www.lse.ac.uk/newsAndMedia/videoAndAudio/channels/publicLecturesAndEvents/player.aspx?id=1681> accessed 15 April 2015.


\(^{21}\) Sen (n 13) 238.


The presence of the words ‘maximum of its available resources’ requires full effort from states, yet also acknowledges the reality that resources and capacity vary amongst them. In practice, it exonerates a state from its inability to fulfil its responsibilities under the ICESCR. However, there has been further clarification of this provision by the Committee on Economic, Social and Cultural Rights (CESCR), which has, in particular, addressed states’ obligation to ensure indiscriminate access to ESC rights under Article 2(2) by taking immediate legislative action as this does not ‘require significant resource allocation’. Therefore, the duty to legally protect the most disadvantaged is an immediate obligation of states.

There are real discrepancies between the two covenants in terms of resources, monitoring bodies, involvement of civil society organisations (CSOs), the jurisprudence based on both covenants, and conceptual and methodological approaches to monitoring. From within the UN there have been some calls for greater internal acknowledgement of ESC rights beyond their indivisibility from and interdependency with CP rights. Audrey Chapman, who served as the Special Rapporteur for the UN Seminar for Appropriate Indicators to Measure Achievements in the Progressive Realisation of Economic, Social, and Cultural Rights in 1993, identified key approaches for ESC rights to ‘be taken seriously’. She advocates the adoption of the ‘violations approach’ to CP rights, monitoring norms compliance, rather than the current ‘progressive realisation’ approach of ESC rights, as the former would be much more effective. This approach is both useful for states’ self-assessment and the CESC’s role to monitor states’ norm compliance. A progressive step in the capacity for individuals and CSOs to engage with the CESC and the ICESCR in order to hold governments to account was taken in 2008 with the promulgation of the Optional Protocol. If ratified, the Optional Protocol would allow the petition mechanism of the Covenant – which had been crucially missing – to fulfil the right to remedy for state violations of ESC rights. The promulgation of the Optional Protocol demonstrated further validation of the legal character of ESC rights and the securing of parity for such rights with CP rights in terms of a violations approach, as advocated for by Chapman. It also demonstrated jurisprudential development by the CESC, and therefore progression in conceptual and philosophical validity, to aid in the

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26 ibid.
understanding and realisation of these rights and states’ obligations to uphold them.

Shortly after Chapman’s appeal, the introduction of the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights reinforced the need for a violations approach. While claiming the balance between CP and ESC rights as ‘undi""""sputed’, the violations approach must be used to effect state accountability.\textsuperscript{27}

In demanding the legal development of ESC rights, and thus authenticating these rights, ESC rights have become institutionalised and therefore constitute legal duties.\textsuperscript{28} However, the feasibility of realising some ESC rights may be low in comparison to CP rights due to perceived resource differences (as will be discussed below). As such, it can be perceived that ESC rights fall short of attaining fulfilment, and thus the status of ‘full’ rights.\textsuperscript{29} Following on with this argument however, Sen asserts that if the full realisation of ESC rights is not feasible, and they therefore cease to possess rights status when the objective is to work towards realisation, then this becomes in itself a paradoxical argument.\textsuperscript{30} Sen therefore collapses the argument most commonly used to sideline states’ responsibility to fulfil ESC rights. In fact, ‘the characterization of some rights as fundamental results largely from our own subjective perceptions of their importance.’\textsuperscript{31} What is called for, then, is the changing of circumstances to such that rights can be fully, or progressively, realised. As such, the mechanisms for the realisation of ESC rights require a broader, more radical transformation in order to adapt to current modes of governance and politics. This need for a more concrete change in the distribution of, and access to, services is the reason why ESC rights have largely remained side-lined by the states that hold the greatest financial resources.

Another fundamental difference between the two covenants concerns states’ approaches to their responsibilities. To uphold the rights enshrined in the ICCPR, states must refrain from violating individuals’ rights; whereas to achieve the rights enshrined in the ICESCR, states must make an active


\textsuperscript{29} ibid 347.

\textsuperscript{30} ibid 348.

\textsuperscript{31} Meron (n 12) 8.
commitment to their realisation. This dichotomy between negative and positive obligations emanating from the two covenants further demonstrates the conceptual divide between the two.\textsuperscript{32} It is commonly argued that positive obligations require greater financial and human resources, whereas negative obligations are less onerous in this regard. As such, the latter are easier to implement, particularly in resource-poor states and in times of austerity. However, this is not necessarily always the case. The infrastructure for protecting CP rights, such as the establishment of effective justice systems, for example, requires the allocation of a significant proportion of state resources. Furthermore, such an argument should not be used by way of an excuse for failures to protect, respect and realise human rights.

Feminist critiques of human rights could help to provide a more progressive understanding and radical realisation of human rights in everyday life. International human rights law ‘operates within the narrow referential universe of the international legal order’.\textsuperscript{33} However, it is possible to challenge the increasingly pervasive neoliberal and profiteering influences on human rights in terms of a public/private binary. The function of the international private sphere, consisting of commodities and consumers, is considered to be that of financial growth. However, the private sphere also largely incorporates the means to achieve the realisation of ESC rights. The Maastricht Guidelines state that ‘the state remains ultimately responsible for guaranteeing the realization of these rights’.\textsuperscript{34} The argument that the progressive realisation of ESC rights is harder to regulate is also influenced by the means to their achievement falling into the private open market as commodities. As such, the complaint that ESC rights cost too much and that realising rights drains states’ resources can be understood to mean that the achievement of these rights stands in the way of private profit.\textsuperscript{35} While norm development in terms of the responsibilities of non-state actors is emerging, it is contentious and slow. A feminist perspective on security, a key arm of neoliberalism, can highlight how human rights are often obscured within the dominant understanding, such as in securing access to water, food and education.\textsuperscript{36} Additionally, with increased awareness of climate change and inequality – which disproportionately impact already vulnerable

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\textsuperscript{33} Christine Chinkin and Hilary Charlesworth, The Boundaries of International Law: A Feminist Analysis (Manchester United Press 2000) 211.

\textsuperscript{34} ‘Maastricht Guidelines on Violations of Economic, Social and Cultural Rights’ (n 27).

\textsuperscript{35} For a list of how neoliberal market policies impede development and human rights initiatives, see Arthur MacEwan, Neo-Liberalism or Democracy? (2nd edn, Zed Books 2001) 5.

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and marginalised groups, as articulated in Article 2.2 ICESCR, particularly financially insecure female-headed households37 – the considerable uncertainties of realising economic, social and cultural rights are increasingly prominent.38

IV. POVERTY AS A CAUSE AND CONSEQUENCE

Poverty is a highly stigmatised issue, which disproportionately impacts already vulnerable groups, perpetuating and entrenching inequality. Its causes and consequences are manifold; as such, people who experience poverty also experience prejudice and discrimination. In order to understand the complexity of this situation it is useful to recall the words of Frantz Fanon: ‘The cause is the consequence; you are rich because you are white, you are white because you are rich.’39 In this statement Fanon extends Marxist theory to the colonial context and understanding of the constituted ‘Other’. In doing so he further develops the relationship between inequality, economics and race. This formulation can be adapted to help us understand the complexity of prejudice and marginalisation: you are poor because you are discriminated against, and you are discriminated against because you are poor. In terms of international human rights law, equality is understood as the guarantee of rights ‘without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.’40 While this is not an exhaustive list, the wide scope of protected identities is radically inclusive and could be understood as encompassing those identities not considered to be ‘neutral’ or ‘the norm’ – namely white, rich, straight, able-bodied men. However, this does ‘evoke an “equality as sameness” approach’ which illuminates the desire for everyone to ‘perform exactly like [white, rich, straight, able-bodied] men’.41

States have an obligation to take ‘special and positive measures to reduce or eliminate conditions that cause or help to perpetuate discrimination’, as well as ‘all appropriate measures to modify sociocultural patterns with a view to

39 Frantz Fanon, The Wretched of the Earth (Grove Press 1961) 40.
40 ICESCR (n 23) art 2(2).
41 Chinkin and Charlesworth (n 33) 230.
eliminating prejudices and stereotypes’ related to poverty. These affirmative approaches are, however, seen as temporary measures, until a more objective measure of equality is attained, without consideration for the appropriateness of this objective position. Charlesworth and Chinkin state that ‘[i]f these rights and freedoms are defined in a gendered way, access to them will be unlikely to promote any real form of equality’, much like the structural perpetuation of inequality.

Only in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) is ‘economic position’ listed as a protected identity in-and-of-itself, rather than through rights to economic fulfilment. The Maastricht Guidelines acknowledge low income as a cause for disproportionate human rights violations, as well as the low-income status becoming ‘increasingly recognised’ as an equality strand within the UK, for instance. It may be the case that class inequality is more historically entrenched and therefore prominent, but it is by no means exclusive to the UK. With wealth inequality growing globally, it is becoming a proliferating cause for social division. Another instance of the legal recognition of economic status as a protected identity characteristic in the UK can be found in the Good Friday Agreement: ‘the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity’. However, this was not reflected in the Northern Ireland Act 1998. It would be interesting to research the potential impact of ‘economic status’ as a protected identity and an emerging norm, considering the increased focus on poverty and its recognition as discussed above.

V. THE ROLE OF CIVIL SOCIETY IN COUNTERVAILING INSTITUTIONAL POWER

The implementation and enforcement of international law have always been a concern. Louis Henkin wrote in 1979 that ‘[a]lmost all nations observe almost all principles of international law and almost all of their obligations almost all

43 Chinkin and Charlesworth (n 33) 230.
45 ‘Maastricht Guidelines on Violations of Economic, Social and Cultural Rights’ (n 27).
47 Good Friday Agreement 1998.
48 Northern Ireland Act 1998, s 75.
This was a depiction of the level of state compliance with international law almost 40 years ago, and compliance has not improved since then. If anything, states have failed to uphold the standards of human rights and exercised double standards that contradict their foundational, universal character. One of the most effective methods of enforcing the accountability of states with regard to their human rights commitments is through civil society.

In addition to efforts within UN bodies as described above, NGOs and CSOs are also the driving force in promoting the unity of civil, cultural, economic, political and social rights to once more be properly understood as indivisible, interrelated and interdependent.

The view that economic, social and cultural rights are mere aspirations of development is legally incorrect and draws attention away from violations of those rights in both poor and wealthy states. A key challenge for human rights activists is to reclaim the universality of rights by spotlighting abuses and campaigning for better enforcement of economic, social and cultural rights around the world.\(^50\)

From this statement it would appear that the NGO community heard Chapman’s calls for a ‘violations approach’, at the very least. Both Human Rights Watch and Amnesty International (AI) have, for instance, broadened their mandates to include advocacy for the protection of economic, social and cultural rights. As Salil Shetty, the Secretary General of AI, asserts, no one should have to choose between living in fear and living in want.\(^51\) While the turn of the century brought about a reinstatement of states’ commitment to international human rights law,\(^52\) and the Millennium Development Goals (MDGs) were a clear undertaking to address the causes and consequences of poverty, critics have expressed frustration that even in their aspirations, states did not build on their current obligations under international law.\(^53\) Neither have states elucidated on the principles of equality and non-discrimination,\(^54\)

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51 Shetty (n 19).
52 Robinson (n 38) 24:00.
53 Amnesty International (n 50) 74.
nor used the language of human rights in framing these goals. In their final year, 2015, the MDGs have not yet been achieved.

While the Optional Protocol to the ICESCR was a major attempt to eradicate systemic inequalities and encourage accountability and redress for individuals and CSOs, only 46 states have signed it until now, with 20 more ratifying or assenting. The UK has not signed the Optional Protocol. This highlights the resistance of individual states to domestic and international scrutiny and the challenges that CSOs face in holding governments accountable.

Interviewees for the ‘Poverty, Inequality and Human Rights: Do Human Rights Make a Difference?’ report articulated the potential for human rights to unite disparate groups who identify under different identities but experience similar rights violations through the perpetuation of inequality and poverty. Campaigns, collectives and activists are increasingly undertaking multi-issue approaches to structural violence and injustice. However, when engaging with governments, some NGOs have found that using a human rights approach in a time of austerity and cuts to welfare in the UK was unhelpful; particularly given the current UK government’s attitude to human rights, evidenced by its plans to scrap the Human Rights Act 1998 and to replace it with a British Human Rights Bill. I would argue that the use of international human rights law during a time of austerity and increased inequality would counter the belief that the unjust consequences of austerity are inevitable. Also, those who were impacted by, and opposed to, the discriminatory and unequal distribution of welfare cuts affecting the already marginalised, could use the international human rights system to challenge the legality of such cuts. If it is not useful to engage with the government on the basis of human rights, it will be empowering for civil society in reclaiming some agency in this regard.

The Northern Ireland Good Friday Agreement crystallised democratic participation in decision-making. The UN Guiding Principles on Extreme Poverty articulate the necessity of women’s participation and equal access to decision-making power and that states must develop mechanisms to enhance the involvement of women in political life and decision-making bodies at all levels, including those living in poverty. The right to participate is also found in ICCPR (Article 25), ICESCR (Articles 13.1 and 15.1), the Convention on the

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55 Chapman (n 25) 27.
56 Donald and Mottershaw (n 18).
57 ibid 39.
59 Good Friday Agreement (n 47).
60 Human Rights Council (n 42) para 28.
Elimination of All Forms of Discrimination Against Women (Article 7), the Convention on the Rights of the Child (Article 12), the Declaration on the Right to Development (Articles 1.1, 2 and 8.2), the Declaration on the Rights of Indigenous Peoples (Articles 5, 18, 19 and 41), and the Millennium Declaration (paragraph 25). In her article, Chapman ends with an invitation to CSOs and other human rights monitors and researchers to join in developing an inventory of rights violations, which will create a ‘bottom-up’ approach to human rights monitoring, demonstrating the vital role CSOs have in the realisation of human rights. My argument is that there are continuous calls for the participation of civil society to engage with national and international legal institutions, to ensure ‘policies are more likely to be effective, sustainable, inclusive and equitable if they are the result of participatory processes’. However, there is also continuous resistance both structurally and politically.

VII. UNDERSTANDING INTERNATIONAL HUMAN RIGHTS AT HOME

With the UK foreign aid budget recently legislated at 0.7 per cent of gross national income, with a view to tackling global poverty, and as at the sixth largest economy in the world, one would equally expect poverty within the UK to be seen as a priority. However, in terms of wealth distribution, the UK is the most unequal state in Europe and the fourth most unequal amongst the Organisation for Economic Co-operation and Development (OECD) countries. The UK is home to nine out of the 10 of the poorest regions in northern Europe, as well as the richest one. When juxtaposed against the findings from Oxfam’s

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62 Chapman (n 25) 66.
63 ‘Participation of Persons Living in Poverty’ (n 61).
66 Inequality Briefing, ‘Briefing 43: The Poorest Regions in the UK Are the Poorest in Northern Europe’
report we can see that Costas Douzinas was right; that vast global inequalities are not limited to inequalities between states, but also inequalities within states. In addition, there is much evidence to show that equality promotes a happier, healthier and more trusting society, with reduced rates of crime, mental and physical health issues and higher rates of social mobility.\(^67\) This is vitally important to emphasise during a period of austerity that has seen huge increase in inequality, both globally and within the UK. Aside from the increasing inequality perpetuating and being caused by breaches of states’ obligations under the ICESCR, states still have a duty to ensure the progressive realisation of such rights during periods of austerity.\(^68\) Using a framework in line with human rights obligations would necessitate a more creative and critical way of approaching the distribution of resources, particularly in times of austerity.

Historically, the focus has long been on international human rights violations taking place overseas. It is thus easy for the UK to be less self-reflective when considering inequalities at home within the human rights context. Eleanor Roosevelt stated:

Where, after all, do universal human rights begin? In small places, close to home... they are the world of the individual person; the neighbourhood [s]he lives in; the school or college [s]he attends; the factory, farm or office where [s]he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world.\(^69\)

PPR’s foundations lay in both the theory and the practice of international human rights. Through participation, empowerment and accountability,

equality and dignity for the most marginalised are safeguarded. Located in Belfast, PPR work within a unique legal and political setting; as a post-conflict, devolved nation of the UK, Northern Ireland is still grappling with historical inequalities. Established in 2001, the work of PPR is entwined with the identity of Northern Ireland, the peace process, and its founder, Inez McCormack. Internationally recognised for her human rights and peace activism, leadership in the trade union movement and role in the Good Friday Agreement, McCormack has always focused on women and the most marginalised groups of society in her work. Tackling daily indignities, recognition of inequalities and redress were essential to the peace process in Northern Ireland for McCormack. As such, PPR supports community working groups who identify real issues in their lives and engage human rights standards and mechanisms in order to hold the government accountable and bring about discernible improvements. In other words, championing the ‘deliberately silenced, or the preferably unheard’, to set the agenda which ‘disrupts traditional power relationships’. Through a modular development programme, campaign working groups are armed with the tools to hold governments accountable and develop their own measurable indicators and benchmarks. These Northern Irish communities are breaking down the barriers rights-holders frequently face when trying to assert their rights. The campaign working groups, with support from PPR, are the instigators of, and driving forces behind, human rights based policy change, rather than policy-makers. This is a point of departure from traditional NGO and government based policy-making and development. By focusing on those who are most affected in every stage of the process, this approach ensures that language, policy development and impacts are understood and felt by those who are supposed to benefit, guaranteeing genuine and positive change.

The use of human rights to reframe the discourse of inequality and poverty in Northern Ireland has asserted the legal obligations of the devolved and central government since the peace process, as well as the entitlements of rights-

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71 For an overview, see The Good Friday Agreement: An Overview (Democratic Progress Institute 2013).
72 The Good Friday Agreement was signed in 1998.
73 Roy (n 2).
75 Such as ‘confidence building; international human rights standards; identification of issues; action research; setting benchmarks and indicators; developing tactics and strategies; understanding power; and preparing for engagement with government’; ibid 67.
76 ibid.
holders regarding civil, cultural, economic, political and social rights. This challenges the ‘infantilisation’ of certain groups who lay claim to specific human rights or those groups that proclaim that human rights are for the benefit of the few rather than for all.\textsuperscript{77}

VIII. USING INTERNATIONAL RIGHTS AT HOME

The use of international human rights tools does not stop with language and education. The campaigns PPR have supported largely fall within the ICESCR. These campaigns include ‘Equality Can’t Wait’, which addresses the disproportionate waiting time for Catholics in accessing services and inadequate living conditions in social housing (right to housing, Article 11 ICESR); ‘Card Before You Leave’, which successfully ensured that people who present themselves at accident and emergency with a mental health crisis receive an appointment within the next 24 hours before they leave (right to highest standard of mental health, Article 12 ICESR); ‘Right to Work: Right to Welfare’, which challenges welfare cuts and unemployment through evidence proving the government has fallen short in meeting their international obligations, particularly through austerity cuts (right to work, Article 6 and right to social security, Article 9 ICESR).

The approaches developed by PPR and working group committees demonstrate how normative understandings of economic, social and cultural rights can be developed and realised. As such, the Right to Work: Right to Welfare campaign was recognised by the UN Special Rapporteur on extreme poverty and human rights as a ‘promising practice to be followed’.\textsuperscript{78} The working groups submitted a joint shadow report to the CESC as part of a review of the UK government’s record on inequality and poverty in 2009. A representative from the mental health, urban regeneration, right to play and housing working groups attended the examination of the UK report, with a question proposed by the housing group being asked by a Committee member.\textsuperscript{79} Upon closer examination of the UK report, it included three recommendations for the devolved and central government with regard to inequalities in Northern Ireland, each relating to a PPR working group campaign. The concerns addressed were the disproportionate impact of housing shortages to Catholic families in north Belfast,\textsuperscript{80} persistent inequalities despite the Equalities Act Impact Assessment,\textsuperscript{81}

\textsuperscript{77} Donald and Mottershaw (n 18) 46.
\textsuperscript{78} Marshall, Ward and Browne (n 74) 74 fn 12.
\textsuperscript{79} ibid 76.
\textsuperscript{80} Committee on Economic, Social and Cultural Rights, ‘Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and
barriers to complaints mechanisms and increasing suicide rates.\textsuperscript{82} The Committee recommended an intensification of efforts, provisions and access, particularly for the most marginalised. PPR also contributed to the NGO Consultation on Participation of Persons Living in Poverty in Decisions Affecting Their Lives, which was submitted by the Special Rapporteur on extreme poverty and human rights to the UN Human Rights Council in June 2013. The report highlights barriers faced by people living in poverty that impacts ‘their participation in decision-making that affects them’.\textsuperscript{83} The UN Special Rapporteur noted the need for meaningful participation in North Belfast in their country visit report on adequate housing and recommended to:

[p]ut in place additional efforts to address challenges to overcome persistent inequalities in housing in North Belfast. For this purpose, active, free and meaningful participation of all in decisions made about housing should be promoted, including in relation to the collection of official data, that should be disaggregated, open and accessible to all.\textsuperscript{84}

The success of the working groups’ engagement with the CESC\textsuperscript{R} and Special Rapporteurs demonstrates how CSOs can engage with international human rights frameworks. The dedication, education and work necessary to be able to participate within both national and international governance and legal structures are immense. For the most marginalised of society to translate their daily indignities into the language and understanding of these frameworks is beyond commendable.

\begin{footnotesize}
\begin{itemize}
\item Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories’ (22 May 2009) E/C.12/GBR/CO/5 para 29.
\item ibid para 31.
\item ibid para 35.
\item NGO Sub-Committee on the Eradication of Poverty, ‘NGO Consultation on Participation of Persons Living in Poverty in Decisions Affecting Their Lives’ (December 13 2012) 2.
\item Human Rights Council, ‘Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik’ (30 December 2013) UN Doc A/HRC/25/54/Add2 80(i). The UK subsequently commented that this was the responsibility of the devolved Northern Irish administration. This diversion of responsibility between the Westminster government and devolved governments highlights further complexities for CSOs when trying to hold duty-bearers accountable within the UK. See ‘Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik: Addendum: Mission to the United Kingdom of Great Britain and Northern Ireland: comments by the State on the report of the Special Rapporteur’ (5 March 2014) A/HRC/25/54/Add.4.
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The Office of the High Commissioner for Human Rights (OHCHR) report, ‘Human Rights Indicators: A Guide to Measurement’ was produced in 2012 to improve the understanding of indicators as a tool to cross-reference government and CSO accounts of human rights situations. PPR’s development and utilisation of international human rights indicators and benchmarks within their Equality Can’t Wait campaign on social housing has been highlighted in the report as best practice for civil society participation, advocacy and empowerment. The campaign called for ‘a resourced strategy for North Belfast outlining time-bound commitments with targets to eradicate religious inequality on the social housing waiting list.’\(^8^5\) The campaign working group and PPR identified and collected evidence around six indicators of the ‘right to housing’ which demonstrated that improvements in the realisation of this right could be measured.\(^8^6\) The indicators were developed and informed by knowledge of ESC rights literature, such as the first indicator, percentage of landings cleaned of pigeon waste, referring to General Comment No. 4 (1991) on the right to adequate housing of the Committee on Economic, Social and Cultural Rights.\(^8^7\) The second indicator, establishing the number of families with children living in the Seven Towers, refers to Article 27 of the Convention on the Rights of the Child.\(^8^8\)

PPR utilise the Good Friday Agreement, the Human Rights Act, the European Convention on Human Rights, and international human rights law and bodies as mechanisms to realise the rights of marginalised people in Northern Ireland. Within the Good Friday Agreement, PPR and the working groups draw on

\(^{85}\) ‘Equality Can’t Wait: The Right to Housing’ (Participation and the Practice of Rights 2013) 62.

\(^{86}\) The six ‘right to adequate housing’ indicators were: Percentage of landings cleaned of pigeon waste; Number of families with children living in the Seven Towers; Percentage of residents reporting drainage and sewage problems; Percentage of residents reporting dampness and mould in their flats; Percentage of residents happy with the response they received from the housing executive to their reported problems (perception and opinion survey); and Percentage of residents dissatisfied with how involved they felt in decisions by the housing executive (perception and opinion survey).’ See ‘Human Rights Indicators: A Guide to Measurement and implementation’ (United Nations 2012) HR/PUB/12/5 <http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf> accessed 15 April 2015, 61.

\(^{87}\) ‘Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors’; ibid para 8(d).

\(^{88}\) ‘States parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.’ Though the ‘parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child’s development’, there are aspects that are mainly in the domain of the community or the local authorities and have to be addressed at that level’; ibid.
Article 5, which ensures community participation in the operation of all democratic institutions. Additionally, rights safeguards and equality opportunities, including victim redress, human rights, and economic, social and cultural issues provisions, are implemented to ensure the ‘promote equality and prevent discrimination’. McCormack was instrumental in the parallel peace process, an alliance of human rights and feminist activists, public sector workers and academics, which secured the radical inclusion of these rights as well as a condition to the fulfilment of the peace process. Securing these rights as fundamental to the success of the peace process offers a radically alternative interpretation of security than would otherwise be implemented.

The current UK government’s characterisation of human rights as ‘infantilising’ betrays their paternalistic approach and fundamentally misinterprets the right-bearer/duty-bearer relationship. This highlights the challenges for CSOs when trying to engage with the state using a human rights approach. PPR continue to meet resistance from state officials, particularly when the groups set the government benchmarks and indicators, or wish to exercise their right to participate. Utilising the international human rights framework holds the UK and devolved governments to account. As Chapman notes, ‘the stigma of being labelled a human rights violator is one of the few “weapons” available to human rights monitors.’

IX. CONCLUSION

In this Article, I have provided a modest exposition of the nexus between inequality, discrimination and poverty. By highlighting resistance to the structural inequalities and violations within the international human rights system, I aim to give space and hope to the democratic countervailing of institutional power. Through creative and defiant means, the radical origins of international human rights can be realised. The good practice carried out by communities in Belfast, with the support of PPR, demonstrates a different way of working together that is desperately needed, both in terms of collective community engagement and negotiation between right-holders and duty-bearers. By ensuring that the most marginalised are at the negotiating table, the

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89 Good Friday Agreement (n 47).
90 Beatrix Campbell, ‘“None of Us Have the Right to Be Who We Were”: A Tribute to a Peacebuilder’ (openDemocracy, 16 June 2014) <https://www.opendemocracy.net/5050/beatrix-campbell/%27none-of-us-have-right-to-be-who-we-were%27-tribute-to-peacebuilder> accessed 22 April 2015.
91 Donald and Mottershaw (n 18) 39.
92 Marshall, Ward and Browne (n 74) 74.
93 Chapman (n 25) 38.
whole pace and direction of the agenda will change. ‘Those who “have” can always argue that tomorrow is the right time for change. For the “have-nots” today is not soon enough.’

A common criticism of or complaint against challenging state non-compliance with their obligations to safeguard ESC rights is the under-utilisation of non-legal approaches in the mounting of such challenges. PPR demonstrates the importance of using non-legal, community engagement and advocacy, as well as highlights potential avenues to engage in international human rights law mechanisms.

The supportive approach of PPR allows rights-holders to realise that they are rights-holders. Even though there is an ever-growing human rights system in place to work towards the realisation of Article 1 UDHR, people who are continually and consistently marginalised often do not realise that human rights are inalienable to them. McCormack recollects a reading of the UDHR with a group of women in social housing in North Belfast, one woman wanted to know how they could get human rights, because they sounded pretty good. When McCormack explained that all human beings were born with human rights, and that they could not be taken away, the woman responded, ‘Well that’s the best fucking kept secret in the whole world’. What is the point of the international human rights system if the people who need it most do not know how to use it to make their voices heard? ‘We speak of people possessing “universal human rights” usually in those contexts where the people have, in fact, no rights and no way to assert rights.’ In order to avoid human rights being self-serving to a system and to people who are already exceedingly privileged, they need to be at the heart of communities, state governance and law. It should be remembered that ‘[t]here’s really no such thing as the ‘voiceless’. There are only the deliberately silenced, or the preferably unheard.’ Organisations like PPR equip the most marginalised communities with the skills and tools necessary to ‘break vicious cycles of powerlessness, stigmatization, discrimination, exclusion and material deprivation’ by claiming the rights that are theirs, on account of them being human.

95 The Meryl Street Forum, ‘Meryl Streep’s Tribute to Inez McCormack at the 2013 Women in the World Summit’ (4 April 2013) 5:00 <https://www.youtube.com/watch?v=o2JxE3EzlI8> accessed 22 April 2015.
96 Gott (n 1) 306.
97 Roy (n 2).
98 Human Rights Council (n 42) 2.
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