

Taking Class Seriously

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ABSTRACT

This article critically analyzes the human rights perspective upon what has emerged as one of the most significant socioeconomic and political challenges confronting many millions of people residing within high-income, liberal democratic societies: rising poverty and socioeconomic inequality. This article argues that international and domestic human rights law and the social and political imaginaries of the wider human rights community largely fails to adequately diagnose and respond effectively to poverty and inequality within to high-income, liberal democratic societies. As a political and ethical doctrine founded upon a normative commitment to social justice, human rights should be taking the lead in efforts to condemn, understand and develop responses to the poverty and inequality which blight the lives of many millions of people within many of the world's most affluent and, allegedly, most "liberal" societies. Human rights law has historically not done so. We, as a community, have not done so. This article offers a specific explanation for this continuing failure, by focusing upon the absence of any concerted recognition of or engagement with social class as it contributes to and compounds our exposure to poverty and inequality. Human rights remain largely blind to the many ways in which social class is intricately connected to poverty and inequality. The human rights community within high-income, liberal democratic societies characteristically fails to take class seriously. Building upon previous writing in this area, this article explains why class is rarely recognized or engaged with by the human rights community. This article also sets out the basis for how we might begin the task of overcoming this highly damaging class blindness, to set the stage for what the author asserts as an urgent need if human rights is to provide the kind of political and ethical leadership required to effectively engage with poverty and inequality in affluent societies: the degentrification of human rights.

I. COUNTING THE COSTS

Poverty, inequality, and the wider and more extensive condition of socioeconomic precariousness have emerged as key challenges within high-income, liberal-democratic societies. Commentators across the political spectrum increasingly acknowledge and offer widely differing analyses of what many have come to view as an existential threat to the current political order and establishment. Following decades of stagnating wages, the profound shock of the global financial crisis of 2008-2009, the resulting austerity programs which many governments

introduced following the near meltdown of the western finance and banking sectors, and now the ongoing consequences of Covid-19, many millions of people living within some of the world's richest economies have descended into poverty and destitution. Increasing numbers of some of the most vulnerable sections of societies have become largely dependent upon diminishing state welfare support and employment within a growing low-wage sector of the economy in which profits are accrued, in part, as a direct result of low wages and "flexible" working conditions. Over the past couple of decades, this parlous state of affairs has been compounded by the increasingly precarious condition of other, previously more secure, sections of the population: the automatization of many industries threatening to render even some middle-class professionals and skilled workers effectively redundant; pensioners face ever diminishing state pensions; the rising cost of housing and diminishing provision of affordable public housing leaves many people unable to afford a home of their own and vulnerable to poorly regulated private landlords; and rising interest rates threaten to seriously impact those large sections of many societies who are carrying historically high levels of personal debt. As Guy Standing has argued, one of the most visible products of decades of governments' adherence to neoliberal fiscal policies is a new social category, or class, which he calls the precariat.¹ In stark contrast to the poverty and precarity of ever increasing numbers of people, one of the other highly visible products of neoliberalism is the exponentially increasing wealth and assets of a very select group of people, who have become routinely known as "the one percent."²

In 2017, some 40 million people lived in poverty in the United States.³ At least 18.5 million of them lived in extreme poverty, and 5.3 million lived in "third world" conditions of absolute poverty.⁴ The US continues to have the highest youth poverty rate in the Organization for Economic Cooperation and Development (OECD), and the highest infant mortality rates

among comparable OECD states.⁵ Its citizens live shorter and sicker lives compared to those living in all other affluent democracies. The US faces increasingly prevalent, eradicable tropical diseases are increasingly prevalent and the Covid-19 pandemic, as elsewhere, disproportionately impacts the poor. The US also has the world's highest incarceration rate, which massively disproportionately discriminates against African American males.⁶ It has one of the lowest levels of voter registrations among OECD countries and the highest obesity levels in the developed world.⁷ The US is the wealthiest country on Earth and has the highest rate of income inequality among Western countries.⁸

Poverty and inequality are also increasingly prevalent within the twenty-seven member states of the European Union. The latest Eurostat data indicates that 21.1% of the EU population (some 92.4 million people), were at risk of poverty or social exclusion in 2019. 22.5% of children are at risk of poverty or social exclusion.⁹ One in six persons in the EU are at risk of income poverty, one in seventeen persons is severely materially deprived, and roughly one in twelve persons live in households with very low work intensity.¹⁰ Across affluent societies, these conditions disproportionately impact particular groups of people, most notably women, children, the disabled, members of ethnic minorities, and the elderly.¹¹ Poverty intersects across many forms of minority status.

Finally, poverty and inequality impact a substantial cross-section of the population of the United Kingdom. Poverty figures from the Joseph Rowntree Foundation's Annual Report for 2020-21 depict a dismal state of affairs. Nearly 14.5 million people live in poverty in the world's fifth largest economy.¹² Close to 2.4 million people live in destitution, half a million of whom are children.¹³ Some 40 percent of all children in the UK live in poverty. Almost 2 million pensioners live in poverty.¹⁴ Increasing numbers of people in the UK have become dependent

upon foodbanks. The Trussel Trust recorded that it distributed 2.1 million emergency food parcels from 2020 to 2021, which is an increase of over 100 percent since 2014.¹⁵ There are now over 2,200 food banks in the UK, up from just twenty-nine at the height of the financial crisis in 2008.¹⁶ Life expectancy is falling for certain groups, and disparities in life expectancy between the poorest and more affluent members of the UK population are growing. The poor are also typically far more vulnerable to ill-health and disease than their more affluent counterparts, a situation which Covid-19 has seriously compounded. In England, homelessness rose 60 percent between 2011 and 2017.¹⁷ The housing charity Shelter estimates that 320,000 people in Britain are now homeless.¹⁸ In the UK and the other states referred to above, the full and long-term impact of Covid-19 upon the poor and most vulnerable members of our society remains unknown, although early indications demonstrate the disproportionate impact of the pandemic upon them.¹⁹

In addition to the more overtly material, socioeconomic effects of poverty and inequality, the poor are also exposed to a complex array of more distinctly civil, political, and culturally symbolic harms and unjust conditions. Some of the most visible and harmful instances are displays of discriminatory and stigmatising attitudes and beliefs exhibited by public officials and other members of the same society towards those considered poor. These stigmatizing attitudes are widespread and have been shown to significantly affect, for example, access to public spaces and amenities,²⁰ affordable housing,²¹ access to healthcare,²² exposure to and treatment by the criminal justice system,²³ access to and willingness to take up available welfare benefits,²⁴ and even parents' custody over their own children, solely on the grounds of their precarious economic circumstances.²⁵ In many countries, distinctive terms of abuse have arisen, which intentionally denigrate and demean the poor, reflecting widespread and documented prejudice

towards them.²⁶

Few question the above facts and figures, as they are based upon a comprehensive array of quantitative social and economic research. However, there are disagreements concerning what these figures demonstrate about the structure of the societies they are found within. Towards one end of the ideological spectrum, defenders of the current neoliberal socioeconomic and political status quo typically insist that poverty and inequality do not undermine the normative basis of a broadly free market, liberal democracy.²⁷ At the heart of this defense of neoliberalism lies a claim that such societies are broadly fair and just. Individuals are free to compete for rewards upon a broadly level playing field. From this perspective, each individual has broadly equal opportunities to make a success in life. The poor are not so much victims of a system that is biased against them, as they are regrettable losers in a sufficiently free and fair competitive society.²⁸ Opposite of this view is an albeit diminished constituency on the political left of the ideological spectrum arguing that poverty and inequality are both essential to a neoliberal, if not any recognizably capitalist, economy, and that the poor share a common identity, which fundamentally undermines their capacity and opportunity to fairly compete on a level playing field across many areas of life.²⁹ Against the naïve methodological individualism espoused by supporters of the current status quo, critics argue that the system favors those with wealth and works against those without. The poor are not just random individuals united only in their inability (or unwillingness) to fairly compete with others, but instead, they constitute a distinct class of people, identifiable by a complex variety of economic, political, and sociocultural ways, who are the victims of pervasive forms of injustice.³⁰

As commonly the case when designating the existence of any community or category of people, class identity is a notoriously complex and debated social fact. As is true of many, if not

all, of the conventionally recognized communities of individuals accorded legal protection within most rights-based systems, class cannot be reduced to any singular and universal set of defining objective or subjective attributes and characteristics. Rather than becoming embroiled in an interminable analysis of how class has been variously analyzed (and rejected) within academia, and more overtly political domains, greater benefit arises from engaging with the social reality of class as primarily based upon and visible through the existence of a “fateful condition,” which only a minority of individuals are capable of overcoming or escaping.³¹ Also, rather than seek to depict what might be naively thought of as the “working class,” this analysis shall focus on the poor as constituting an albeit internally diverse constituency or class of people, subjected systemically to pervasive forms of discrimination and inequality.³²

This article’s efforts to identify the reality of the poor as a distinct class of people grounds itself in focusing on one key defining attribute: social mobility, or rather, the lack of social mobility that increasing numbers of people are subjected to. The inability to overcome from this state underlies the claim that class can be understood as a fateful condition. The lack of social mobility points unequivocally to the persistence of intergenerational poverty and marginalization. In stark contrast to the naïve individualism of defenders of the status quo, the lack of social mobility confirms that poverty and inequality afflict families and entire communities, and not merely isolated individuals. The lack of social mobility presents an entirely inconvenient truth to those who continue to defend the claim that equality of opportunity genuinely exists and extends to include all sections of affluent societies.

In addition to the growing recognition of poverty and inequality within many high-income, liberal democratic societies, an increasing attention falls on the lack of social mobility within many of these same societies. No less an establishment institution than the World

Economic Forum (WEF) has provided compelling evidence that the vast majority of people do not change their socioeconomic status and standing across their lifetimes.³³ Few people born to middle and upper-class parents descend into the lower classes and even fewer people born into the lower classes successfully ascend the social class ladder over the course of their lives. This lack of social mobility has been worsening over the past two to three decades.³⁴ Having developed a Global Social Mobility Index, the WEF has painted a gloomy picture of the prospects for social advancement within most societies. In their 2020 report, they asserted that “there are only a handful of nations with the right conditions to foster social mobility. Furthermore, most countries underperform in four areas: fair wages, social protection, working conditions and lifelong learning.”³⁵ The UKs government provided more specific evidence of the lack of social mobility through the Social Mobility Commission, which, in its 2021 report proclaimed that “every critical measure of low social mobility – child poverty, income inequality, access to stable housing, unemployment for young people and gaps in school attainment – was poor in 2019. The impact of COVID-19 is threatening to make each of these factors worse.”³⁶ The overwhelming majority of children raised in poor families and neighborhoods, face systemic barriers to their sharing in the privileges of their counterparts in more affluent and secure settings.³⁷ For the vast majority of the poor, their condition is insuperable. Poverty and many of the economic, political, and sociocultural effects of that, creates an inescapable fate for a great many people. As one academic has recently written, “in the UK today the most determinative fact in relation to most people’s life chances is their socio-economic origin and status. This is particularly the case relative to the impact of the other protected characteristics.”³⁸

II. HUMAN RIGHTS-BASED APPROACH TO POVERTY AND INEQUALITY IN HIGH-INCOME LIBERAL DEMOCRACIES

Many of the conditions routinely experienced by the poor within high-income, liberal democracies have risen to a level so egregious and harmful as to constitute human rights violations. These human rights violations extend to include a wide range of civil, political, social, and economic rights.³⁹ As demonstrated above, poverty is not merely a material, socioeconomic condition, but also extends to include more conventional, civil and political rights conditions. Despite this, for those within the human rights community who take poverty and inequality seriously the prevailing focus centers on social rights remedies.⁴⁰ While understandable, this is regrettable to the extent that the human rights-based approach to poverty and inequality has developed out of an earlier context in which social rights were often dismissed as not being genuine human rights, (or, if they were, they were often considered not as important as their civil and political counterparts). Not so long ago, prominent voices in the global human rights community remained concertedly opposed to the UN assertion that all of the human rights contained within the two core human rights treaties were interdependent and mutually supportive.⁴¹ While the opposition to social rights as human rights has significantly diminished over the past decade or so, the legacy of this skepticism remains in a persistent claim that human rights has largely failed to recognize, let alone address, structural and systemic forms of poverty anywhere, but especially the poverty and inequality found within high-income, liberal democracies.⁴² As Grainne de Burca has recently reiterated, “the fundamental underlying charge that the human rights movement has not adequately addressed structural injustice, and particularly structural economic injustice, is a difficult one to refute.”⁴³

A great importance exists in acknowledging the efforts made to support social rights and

to recognizing the relatively extensive body of international, regional, and domestic human rights legal instruments which offer potential remedies for poverty and inequality as human rights violations. While the human rights movement has clearly not done enough to combat poverty and inequality, it is unfair to assert that the human rights movement has been entirely silent on this issue.

In respect of existing legal mechanisms, there exists an extensive body of international, regional, and domestic human rights instruments concerned to address both poverty as a distinctly socioeconomic condition and the civil, political, and cultural inequality and discrimination which adversely impacts many poor people, beyond and including lack of access to socioeconomic resources.⁴⁴ The General Comments and advisory opinions issued by treaty monitoring bodies in recent years have reaffirmed and clarified the need to address the most egregious forms of poverty and inequality, even within high-income states.⁴⁵ The UN has also established a specific mandate dedicated to combatting extreme poverty; itself underpinned by a set of UN Guiding Principles.⁴⁶ Contrary to a highly influential view that extreme poverty has been eradicated within high-income states, the previous and current mandate holders have expressly focused upon some of the world's most affluent states, including the US, the UK, EU institutions, and Spain. Most notably, Philip Alston, the mandate holder until 2019, attracted a significant amount of attention in human rights circles and subsequent criticism from state representatives for his damning reports following country visits to the US and the UK, in which he found and condemned appalling levels of extreme poverty.⁴⁷

Despite the existence of an extensive body of human rights law and the high-profile interventions of the UN Special Rapporteur for extreme poverty, critics nevertheless continue to argue that much of the law which exists is poorly implemented and that state sovereignty ensures

that the condemnations of activist-scholars such as Philip Alston amount to little more than impotent rhetoric.⁴⁸ Despite human rights' concerns for poverty and inequality, more people are becoming poorer as a tiny constituency of people become exponentially wealthier and more powerful. Other critics have reasonably argued that, even if implemented, existing economic and social rights would do little to remedy forms of structural poverty and inequality, or that the progressive realisation clause contained within the International Covenant for Economic, Social and Cultural Rights (ICESCR) effectively provides a get-out clause by which states can avoid implementing their commitments in areas such as education, healthcare, housing, social security, access to food and the like.⁴⁹ However, this article shall maintain focus upon a vital aspect of attempts to confront poverty and inequality, which is nevertheless largely ignored by human rights law and the wider human rights movement: social class.

III. WRONGLY RECOGNIZING CLASS WITHIN HUMAN RIGHTS

This article has contended that the poor in high-income, liberal democratic societies exist as a collective class. Peoples' exposure to poverty and the harmful effects of socioeconomic inequality are, in large part, a consequence of the poverty-afflicted environments they are raised within. Poverty and inequality are structural and systemic.⁵⁰ They are the direct consequence of a highly complex assortment of factors, from global macroeconomic policies to the decisions made by local authorities over housing, transport, community services, and the like. Systemic inequality ensures that the poor and their better off counterparts rarely compete on the same, level, economic playing field, that meritocrats are so enamoured with.⁵¹ Rather, the poor are generally confronted by a largely insuperable, ninety-degree angle slope to ascend even before

they have a chance to begin competing for the limited rewards liberal capitalist societies offer.⁵² To be sure, as a class of people sharing a common structural exposure to poverty and inequality, the poor are extremely diverse and culturally divided along racial, national, gender and sexual orientation, religion, and political lines. Additionally, some peoples' experience in poverty is compounded by, for example, racism and sexism.⁵³ These differences are stark and the ongoing politicization of them is deeply damaging to any concerted efforts to overcome poverty and inequality. Despite these differences, however, the poor largely share a common fate and exposure to systemic and rising poverty and inequality within some of the most affluent and allegedly most liberal societies on earth.⁵⁴ Increasingly, the poor are becoming collective victims of systemic social injustice and human rights violations.

Given the status of human rights as a champion of social justice and the undeniable reality of the ongoing and systemic human rights violations suffered by the poor, it should come as a shock to learn that social class is almost entirely absent within international, regional, and domestic human rights law. Some exceptions exist, which will be discussed later in this article. However, this article argues that well-intended attempts to bestow recognition upon social class, upon the poor as a class, do little or nothing to address the deeper injustices to which the poor are subject.

Within international, regional, and domestic human rights law, a robust and comprehensive body of legal protections for a wide range of differing ascribed identities has arisen since the 1960s.⁵⁵ From international conventions to domestic rulings and legislation, many groups of individuals have gained protection from discrimination in the public and, to a lesser extent, the private sphere. However, while legal protections exist to both protect people from discrimination (and in some cases even to enjoy access to their language, gender, and

sexual orientation, indigeneity, and religious beliefs and practices), rarely have such protections been afforded to people on the grounds of their social class or socioeconomic standing.⁵⁶ Indeed, some legal jurisdictions have expressly excluded social class as a legitimate protected characteristic, most notably the US and the UK.⁵⁷ In other jurisdictions, the treatment of social class is somewhat more ambiguous and complex.

Thus, in respect of international and regional human rights law, nondiscrimination and equality are, of course, fundamental components of international, regional, and domestic human rights law. UN Articles 2(1) and 26 of the International Covenant on Civil and Political Rights (ICCPR) expressly protect people against any discrimination on grounds of race, color, sex, language, religion, political opinion, national or social origin, property, birth, or other status.⁵⁸ Article 2(2) of the International Covenant of Economic, Social and Cultural Rights (ICESCR) provides a similar protection. Note the inclusion of national or social origin in this formulation. Social origin is also included as a protected characteristic in the antidiscrimination provision of Article 14 of the European Convention on Human Rights (ECHR) and Article 1 of Protocol No. 12 of the ECHR.⁵⁹ The European Social Charter, Article E also prohibits discrimination on grounds of social origin or other status. Finally, Article 21 of the Charter of Fundamental Rights of the European Union forbids discrimination on grounds of “social origin.”⁶⁰ However, none of these instruments provide protection for people on the basis of their social class or socioeconomic standing. Thus, the treaty monitoring body for the ICESCR, the Committee on Economic, Social and Cultural Rights, has clarified in its General Comment 20, that social origin is an inherited social status, based upon descent and does not extend to include social class.⁶¹ A similar interpretation has been delivered by the European Committee for Social Rights, and rulings of the European Court for Human Rights.⁶² Thus, despite initial appearances to the

contrary, social origin cannot do the work required to address the injustices and human rights violations the poor are forced to endure as a class of people. Despite the explicit exclusion of social class as a protected category within the above legal instruments, there exists a body of law and academic scholarship which does espouse providing antidiscrimination protections to poor people.

At the level of domestic human rights law, social class has been recognised by several states within Canada, Cyprus, and South Africa, all of which have included social class or socioeconomic standing as a protected characteristic, rendering discrimination against people on the grounds of their class illegal.⁶³ An academic scholar Sarah Ganty has noted, domestic protections against the stigmatization of the poor also exists within several EU Member States, including Belgium, Bulgaria, Croatia, the Czech Republic, Hungary, Latvia, Lithuania, Romania and Slovakia.⁶⁴ Article 14 of the European Convention on Human Rights also affords applicants the opportunity to claim protections against discrimination on grounds of their social condition.⁶⁵ However, these protections are rarely claimed and even more rarely granted. As Ganty argues, “[m]any national, European, and international anti-discrimination provisions prohibit discrimination based on a person’s socioeconomic situation. It is striking, however, that this is barely applied in practice. There is little case law related to this at national, international and European levels.”⁶⁶ At the level of international human rights law, the previously mentioned General Comment 20 of UN Committee on Economic, Social, and Cultural Rights explicitly acknowledges that “a person’s social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the refusal of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places.”⁶⁷ Similarly, the UN Guiding

Principles on Extreme Poverty and Human Rights expressly state that individuals have the right of protection from the negative stigma attached to the conditions of poverty, without going so far as to identify the poor as a distinct category or class of people in keeping with the wider UN rejection of human rights as collective rights.⁶⁸

The concern for recognizing social class as a ground for discrimination and stigmatization has also received attention from a small number of human rights academics in recent years. These include, Shreya Atrey, Sandra Fredman, Sarah Ganty, Kate Malleson, Wayne MacKay and Natasha Kim, Juan Carlos Benito Sanchez, and Geraldine Van Bueren, all of whom have presented critical analyses of the general exclusion of social class from international, regional and domestic discrimination law, whilst simultaneously arguing, in most cases, for inclusion of social class as a protected characteristic.⁶⁹ Thus, Sarah Ganty has written “poor people themselves are subjected to stereotyping, prejudice, stigma and discrimination because of their precarious situations. In this regard, poverty is not only a consequence but also a cause of discrimination, creating a vicious cycle. In other words, misdistribution raises important issues of recognition resulting from a person’s socioeconomic status.”⁷⁰ Van Bueren has been even more explicit in her call for the recognition of social class within the UK’s domestic anti-discrimination mechanisms when she states, “[i]t is an extraordinary lacuna, that to discriminate on the basis of someone’s class is lawful in the UK and in the domestic legislation of many countries of the world.”⁷¹ She then stated unequivocally, “I argue that the time is now overdue for the inclusion of an express prohibition against class discrimination in law—national, regional and international—because the reliance upon existing standards has proven grossly inadequate.”⁷²

On first reading, one might welcome the above exceptions to the general exclusion of

social class from human rights law and the wider human rights movement. Clearly, discrimination and stigmatization against poor people for being (or simply appearing) poor are intolerable. However, these existing efforts are almost entirely concerned with the cause of antidiscrimination and seek to extend the existing framework of what can be termed recognition rights to the poor. The intent of this is to change wider prejudiced and discriminatory attitudes towards the poor in similar ways to long standing campaigns to eradicate racism, sexism, antisemitism, islamophobia, transphobia and related forms of xenophobia and intolerance. However, the exclusive focus upon attitudes towards the poor and efforts to establish classism as a wrong comparable to racism and sexism, for example, entirely misconstrues the nature of the injustice the poor suffer. The task ahead extends beyond mere incentivizing people to alter societal attitudes towards the poor, but rather addressing and eradicating the very structural forces which produce the poor as a distinct class. Putting all efforts into combatting discrimination against the poor will, by itself, do little, if anything, to recognize and begin to remedy the systemic inequalities which the poor labor under. Discrimination and stigma further compounds the plight of the poor. However, the main problem the poor are confronted by is the material and fateful condition of being poor in the first place, rather than their own or others' attitudes towards the identity of the poor.⁷³ Peoples' exposure to the intergenerational reality of poverty is overwhelmingly a consequence of impersonal structures, processes, and mechanisms, and is due much less to a state of consciousness or peoples' attitudes.⁷⁴ In respect to poverty, remedies based primarily or exclusively upon combatting discrimination are focusing upon the symptoms, and not the underlying causes, of the injustices the poor suffer.

IV. THE WRONG APPROACH TOWARDS TAKING CLASS SERIOUSLY

The welcome but ultimately profoundly limited efforts to afford antidiscriminatory human rights protections to the poor within affluent societies should be situated within a wider political context. While poverty and inequality have become endemic within many liberal capitalist societies, many human rights and social justice activists and scholars have been primarily, if not overwhelmingly, focused upon defending the rights of members of minority and marginalized communities. A great deal of effort has been rightly expended on demanding equal, legal recognition for groups of people who have long suffered from systemic discrimination. This human rights-based prioritization of the rights and status of marginalized and discriminated against groups is, itself, a component of the wider, liberal engagement with, what a number of theorists have labeled the “politics of recognition.”⁷⁵ Beginning with the civil rights and feminist movements in the 1960s and early 1970s, the human rights and social justice activism within many affluent, liberal societies have been focused concertedly upon upholding the value of cultural diversity and the more specific norm of equal worth of all forms of identity found within what were increasingly multicultural societies.⁷⁶ Across wide swathes of these diverse societies, and against entrenched forms of racism, sexism, and xenophobia, the human rights community has secured many significant victories through international law, domestic legislation, and constitutional court rulings in which previously discriminated against peoples have gained equal recognition rights. One might go so far as to claim that within high-income, liberal democratic societies, the most significant human rights victories exist within the sphere of recognition rights.⁷⁷ One may go further still and argue that combatting discrimination is the principal instrument through which these significant successes have been achieved. Recognition rights and the principal focus upon combatting discrimination have sought to ensure that many communities of people are able to positively access and exercise what are typically understood to

be key attributes of their cultural identity. Against the prejudice and xenophobia many have suffered, these positive legal rights have sought to ensure that people could begin to take pride in their identities.⁷⁸ Less ambitiously, some jurisdictions have sought to enact the norm of nondiscrimination by establishing a series of mostly negative protections against external assaults upon a community's shared identity.⁷⁹ In effect, those who argue that similar forms of antidiscriminatory protections should be extended to the poor have largely, if not entirely, accepted the wider normative logic of the politics of recognition, which is essentially based upon the insistence that people have a right to be who they are and that no community of people should be treated as less equal than any other.

The norm of the equal value of all communities' ways of being and believing has generated an extensive body of literature, some of which has been decidedly critical. From a human rights-based perspective, some have argued that the overt incompatibility between some cultural communities' practices and beliefs with core human rights norms, such as gender equality, for example, entitles us to dismiss the norm.⁸⁰ Others, from more critical theoretical perspectives, have argued that some peoples' attachments to some aspects of their purported culture are shaped through relations of inequality and exploitation. In the words of Wendy Brown, some peoples' attachments are thereby manifestations of the "wounds" of the underlying injustices which have shaped them, and thus should not be endorsed by those seeking socially just conditions for all.⁸¹

This article's position on the question of the class identity of the poor closely follows Brown's (and others) approach.⁸² The class identity of the poor is not essentially cultural, but structural. It is fundamentally and integrally based upon systemically unjust conditions, which, through a highly complex constellation of different socio-economic, political, and cultural

elements, serve to consign vast numbers of the poor to a fate in which the core liberal ideals of equality of opportunity and substantive equality before the law are largely unrealisable.⁸³

Extending the logic of the prevailing politics of recognition to the poor would, one would imagine, be consistent with the establishment of Pride Days for the Poor, in which the allegedly distinguishing characteristics of the poor might be celebrated rather than denigrated and belittled. Of course, the poor suffer widespread forms of discrimination and marginalization. On the other hand, such forms of discrimination contribute to and compound the more tangible, material disadvantages the poor are subject to. However, antidiscrimination and equality, particularly social equality, are not the same. As many have argued, and a comprehensive body of research testifies, the many successes, which have been secured in combatting discrimination, have not served to simultaneously protect the same groups of people from the substantively different injustices of poverty and inequality. While some members of some communities have benefitted from the legal rights afforded those whose characteristics are constitutionally protected by gaining access to Ivy League colleges, professional advancement in the boardroom by shattering the “glass ceiling,” or through greater representation in the media, a far larger number of others who possess these anti-discrimination rights languish in poverty and are exposed to the human rights violating consequences of systemic inequality.⁸⁴ The overwhelming focus upon the wrong of discrimination effectively negates the ability to recognise the related wrong of social inequality. This unjust state of affairs, exemplified by a profoundly limited instrument for social justice, is further compounded in the complete lack of protections afforded to those members of communities who have not been legally recognised as entitled to protection, particularly poor, white, straight, able-bodied men, for whom there is typically little interest or sympathy in human rights-supporting, so-called “progressive,” circles.⁸⁵

No one should question the legitimacy of the concerted efforts which have been made over the past several decades to combat systemic discrimination and xenophobia. Nor should anyone imagine that wealth alone serves to ensure that groups of people are not continuously exposed to a variety of prejudices. However, the brutal truth must be faced in acknowledging both the successes and the failures of the overwhelming focus upon securing and extending recognition rights to minority communities. Campaigns against discrimination have all too often lacked a “political economy” component, which would enable us to assimilate a due concern for poverty and inequality within wider normative project. An urgent need also exists to pay due attention to the largely unacknowledged dimensions of poverty and inequality as they impact even those communities of people whose recognition rights have been successfully fought for, as well as those poor people who have not been particularly well disposed towards. Understanding poverty and inequality largely, if not entirely, through the prism of nondiscrimination is manifestly the wrong way to conceive of and engage with the growing and internally diverse class of the poor. It amounts to yet another failed attempt to take class seriously at the precise moment when the need to do so is more urgent than ever.

V. WHY ARE WE FAILING TO TAKE CLASS SERIOUSLY?

An entirely comprehensive and satisfactory answer to the above question requires a far lengthier treatment than can be provided here. There are certainly many factors that contribute to the continuing failure to take class seriously within human rights law and the wider social and political imaginaries of the human rights movement within high-income, liberal democratic states. This article shall therefore focus on the key context for neglect of the significance of class

through brief discussion of the gentrification of human rights.⁸⁶

A previous publication set out a critical perspective upon human rights' complex connections with the wider economic, social, and political forces that have profoundly shaped conditions within high-income, liberal democratic states since the 1970s, continuing into the present-day.⁸⁷ Aligning critique with others who demonstrated the entwinement of key elements of the human rights project with neoliberalism, the publication sought to refine this critical perspective by specifically focusing upon a continuous and concerted displacement of the injustices of the class of poor people within some of the world's most affluent societies with a series of interests which resonated strongly with relatively more secure, if not privileged, sections of society. The increased interest in and support for human rights within many societies during the past 50 years or so has been achieved largely by the sidelining of class, poverty, and social inequality within those societies.⁸⁸ While one must not underestimate the devastating consequences of absolute poverty in far off places, the awful injustices suffered by those who face torture or arbitrary detention in authoritarian states, or the significance of the harms suffered by political dissidents in illiberal states, one's commitment to these global causes has the benefit of allowing one to not have to consider whether one's own socioeconomic standing within one's own high-income, liberal democratic state might itself be connected to systemic injustices and human rights violations closer to home. For some parts of the human rights community, an interest in human rights offers an opportunity to support progressive causes which can be comfortably addressed without the prospect of the support requiring a significant reform to one's own socioeconomic and political circumstances. A sustained concern for poverty and inequality at home is simply potentially far too disruptive for what others have referred to as the "new middle classes," whose interests and values have come to increasingly influence and shape

policy and legislation within many affluent societies that repeatedly declare themselves to be champions of human rights.⁸⁹ Indeed, even when the human rights defenders and scholars turned their attention towards domestic challenges such as racism, sexism, and others forms of xenophobia within high-income, liberal states, the attention rarely included a sustained concern for the compounding effects of poverty and inequality upon these people.⁹⁰ The unintended consequence of this way of framing what constitutes human rights violations and social injustice within affluent societies is to either aid and abet neoliberal injustice, or to ensure that a potentially powerful and critical human rights perspective upon this injustice does not emerge as an opponent to the prevailing order. Referring specifically to the hegemonic influence of identity politics, to which recognition rights can be added, upon the consciousness and activism of many US “progressives” over the past few decades, Walter Benn Michaels has stated that, “[t]he only inequalities we’re prepared to do anything about are the ones that interfere with the free market.”⁹¹ More recently, the critical theorist Nancy Fraser has also focused upon the deeply unsettling connections that exist between the prominence of key recognition rights’ causes and the need that neoliberalism has for diverting collective focus away from the systemic poverty and inequality it entails.⁹² Following on from Benn Michaels’ critique of the gentrification of human rights, Fraser argues that the politics of recognition provided a key element of the neoliberal hegemony through its exclusion of any concern for redistribution as an essential element of any genuinely progressive or radical platform.⁹³ This also included a general acceptance of social hierarchies, albeit in an effort to promote some minorities’ greater access to the rewards and privileges of a systemically unequal society.

Analysis of the gentrification of human rights also included a social demographic claim which, following the academic literature on the hegemonic influence of the new middle classes

during the period in which human rights enjoyed a particularly prominent status in progressive circles, argued that the human rights community within high-income, liberal democratic states overwhelmingly consists of individuals and constituencies who are neither poor, nor have any extensive experience with the systemic challenges poor people must continuously endure.⁹⁴ There are, of course, many exceptions to this general state-of-affairs, and some of these exceptions have made important contributions to the work of particularly grass-roots campaigns for better housing, employment, and education.⁹⁵ However, they remain marginal to the efforts and perspectives of the wider human rights community, which remains generally the preserve of those with a university or college education.

Far more speculatively, one might also question whether recent illiberal political developments within many liberal democracies also undermine a willingness to empathize or otherwise engage with some of the poorer and more marginalized sections of societies. Following Hillary Clinton's infamously counterproductive labeling of many Trump supporters as "deplorable," and the British Labour Party's loss of previously staunch working-class, Labour supporting constituencies in the North of England in the 2019 UK General Election,⁹⁶ some have drawn the conclusion that many particularly white, working-class voters are a complete lost cause when it comes to efforts to promote social justice and genuine equality.⁹⁷ No one can or should deny that such attitudes exist and that they have shaped the political allegiances of many poor and marginalized constituencies in recent years. Indeed, a narrative has emerged in response to this challenge, which largely characterizes the nongentrified as illiberal and instinctively hostile towards the human rights project and our core ideals and values.⁹⁸ On this view, it seems entirely reasonable to assert that precious time and resources should not be wasted seeking to engage with those poor people who appear to be so resolutely hostile to the human

rights cause. This is a developing and highly complex phenomenon.

In common cause with previous human rights' calls to attempt to overcome our aversion to all aspects of populism, the "deplorables" narrative rests upon a number of empirically false assumptions, and a rather "gentrified" perspective upon poverty and inequality within high income, liberal democratic states.⁹⁹ Thus, blaming the poor, or those without university degrees for the election of Donald Trump or Boris Johnson significantly over estimates the actual electoral effects of these demographic groups whilst simultaneously under estimating the support of far more affluent and established constituencies.¹⁰⁰ Additionally, the liberal, rights-based response to so called "right-wing populism" continues to perpetuate the gentrifying tendencies depicted by almost entirely over-looking the pervasive effects of poverty and inequality upon the appeal of nativism and illiberal authoritarianism to some constituencies of those previously largely ignored voters, who have succumbed to the appeal of right-wing populism.¹⁰¹ Put simply, it may be easier to identify with and be supportive of many human rights causes when good grounds exist to think that support will not further undermine one's own precarious access to key services and goods, such as healthcare, employment, education, and decent housing. It might also be harder to see the relevance of supporting human rights when the human rights community rarely engages with the plight of the poor and the precarious.¹⁰² The very fact that the human rights community only rarely appears to highlight the plight of the poor as a distinct class or category of victims in our midst might just lead some of those self-same people to ignore or dismiss the relevance of human rights for their lives and concerns. While this article does not advocate for simply setting to one side the xenophobic prejudices which some poor people may hold and express, it also draws concern about the counter-productive consequences for the human rights project in maintaining a persistent disinterest in the plight of the poor, a profoundly

“intersectional” constituency, with a discernible tendency to characterize many, particularly white, poor people as deplorable opponents of a human rights-based approach to social justice. Such a blanket and overly generalised dismissal of an entire class of people directly contradicts the ideals for which human rights purportedly stands.

VI. TOWARDS TAKING CLASS SERIOUSLY

This article should make apparent that simply adopting a reformist agenda in which class is merely added and stirred into existing beliefs and practices, will not achieve fully taking class seriously. To a certain extent, even those scholars and activists who have sought to acknowledge class as a human rights phenomenon typically offer little more than a reformist agenda in response to the pervasive injustices suffered by the poor. Instead, properly addressing the role which class exercises in consigning growing numbers of people to a life of poverty and inequality within some of the wealthiest societies on earth, urgently requires a far more radical approach.¹⁰³ While this may not sit well with all of those few human rights scholars who emanate from working-class backgrounds, merely seeking to extend antidiscrimination protections to social class offers the wrong remedy to the wrongly diagnosed injustice. Unlike many other forms of visible and invisible identities, class identities are deeply embedded within relations and conditions of systemic injustice and inequality. The focus should not be restricted to seeking to change prejudiced attitudes towards the poor as a distinct class, but rather the aim must be to expose and develop a collective awareness of the hidden and increasingly visible wounds and injuries of that class. The ultimate objective should be to abolish “class” as the fateful condition, as opposed to providing opportunities to take pride in being poor and

marginalized.

This structural approach will also require a departure from the normatively and methodologically individualist silos within which human rights have developed and been contained. Taking class seriously will require a willingness to engage in a concerted collective exercise of critical self reflection, in which we will need to consider the relation to the wider systemic injustices that impact the poor so egregiously. This much is entailed by an insistence that taking class seriously will only be possible as part of a wider effort to de-gentrify human rights where the gentrification of human rights continues to systemically disconnect people from the plight of the poor within affluent, ostensibly liberal societies. Across many areas of life, effective human rights-based programs of social justice for the poor will almost certainly entail consequences for many people and the relative privileges they benefit from.

Taking class seriously will also require a greater interest in and sustained engagement with existing human rights issues that have often occupied the margins of interest amongst the human rights community. In addition to continuing to address more established human rights issues, new issues must draw excitement, such as unionization, housing, mortality, healthcare, employment, public transport, access to public libraries, the wider forms of social exclusion suffered by the poor, and the systemic indignities inflicted by the neoliberal state upon those who turn to it for essential support in times of need. None of this requires a radical reimagining of what human rights are—human rights already possesses the means for clearly identifying many of the wrongs the poor are exposed to in affluent societies. However, what is required, taking class seriously requires a redoubling of efforts to protect those civil, political, economic, and social rights which are violated as a direct consequence of poverty and inequality.

If class is to be taken seriously, a far more effective set of political and policy-directed

tools and instruments must be developed, in addition to the largely legal methodology currently relied so heavily upon. While the rights secured by individuals through litigation should be welcomed, addressing these wrongs as class-based will require a far broader approach. One which targets politicians and policymakers as they develop the regulatory frameworks that impact key aspects of all lives. This will inevitably cause concerns amongst those within the human rights community who continue to support the myth of the ideological or political neutrality of human rights norms and law.¹⁰⁴ However, this myth has provided a powerful alibi for decades of neoliberal injustices, whose consequences now pose a potentially existential threat to our shared existence.

Taking class seriously is going to require radical changes to engagement and interaction with power and privilege. It will also require a critical level of self reflection, which many will wish to avoid. Taking class seriously will require far reaching and radical changes to how people operate and even who people collectively are. There will be those who will conclude that the vision of this article is simply far too demanding and utopian. Radical change is not to everyone's liking, nor in many peoples' interests. However, while more conventionally recognized human rights challenges will continue to blight our world and will demand our engagement, poverty, and inequality within high-income, liberal states also demands recognition and engagement. The fact that so little attention has been paid to the victims of systemic injustice right in the heart of societies should be a source of collective shame. Knowing now about the impact of poverty and inequality upon the poor as a class of people, continued failure to acknowledge and engage with this injustice will seriously call into question the moral authority of what remains the dominant platform for justice within so many societies and parts of the world. Failing to take class seriously risks fatally undermining the entire standing of the global

human rights project, the failure of which would be catastrophic.

Endnotes

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¹ See generally GUY STANDING, *THE PRECARIAT* (Bloomsbury 2014).

² ADD CITE. Id.?

³ Within most developed states, the United Nations criteria for relative poverty is calculated as a proportion, typically between 50 to 60 percent, of the median per capita income for any year. The US is an exception. See U.N. DEP'T ECON & SOC. AFFS., *REPORT ON THE WORLD SOCIAL SITUATION 2010, RETHINKING POVERTY*, at 45-62, U.N. Sales No. 09.IV.10 (2010). In the US, poverty is measured by comparing a person's or family's income against a minimum amount of income necessary to cover basic needs. See, *How is Poverty Measured?*, UNIV. WIS.-MADISON INST. RSCH. POVERTY, <https://www.irp.wisc.edu/resources/how-is-poverty-measured/> (last visited Jan. 30, 2023) [<https://web.archive.org/web/20230110095527/https://www.irp.wisc.edu/resources/how-is-poverty-measured/>].

⁴ Philip Alston (Special Rapporteur on Extreme Poverty and Human Rights), *Report of the*

Special Rapporteur on extreme poverty and human rights on his mission to the U.S. of America, at 3, U.N. Doc A/HRC/38/33/Add.1 (May 4, 2018).

⁵ ADD CITE. Is this paragraph all from the same source or multiple sources?

⁶ ADD CITE.

⁷ ADD CITE.

⁸ These figures and statistics are contained in the US country report of the UN special Rapporteur for Extreme Poverty and Human Rights. *Special Rapporteur, Report of the Special Rapporteur on Extreme Poverty and Human Rights on His Mission to the United States of America*. U.N. Office of the High Comm’r for Hum. Rts. (OHCHR), U.N. Doc. A/HRC/38/33/Add. 1 (2018) (by Philip Alston),

⁹ European Commission, *Eurostat: EU poverty figures, Over 20% of EU population at risk of poverty or social exclusion in 2019* (16/10/20), <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20201016-2> [<https://web.archive.org/web/20221217012343/https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20201016-2>].

¹⁰ *Id.*

¹¹ ADD CITE.

¹² JOSEPH ROWNTREE TRUST, *UK POVERTY 2022: THE ESSENTIAL GUIDE TO UNDERSTANDING POVERTY IN THE UK*, 10 (2022).

¹³ *Id.* at 20.

¹⁴ *Id.* at 10.

¹⁵ The Trussel Trust, *End of Year Stats (2022)*, <https://www.trusselltrust.org/news-and-blog/latest-stats/end-year-stats/> [<https://web.archive.org/we>

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¹⁶ Philip Alston (Special Rapporteur on Extreme Poverty and Human Rights), *Visit to the United Kingdom of Great Britain and Northern Ireland*, at 3-7, U.N. Doc A/HRC/41/39/Add.1 (Apr. 23, 2019).

¹⁷ *Id.* at 7.

¹⁸ *320,000 People in Britain Are Now Homeless, as Numbers Keep Rising*, SHELTER (Nov. 22, 2018),

https://england.shelter.org.uk/media/press_release/320,000_people_in_britain_are_now_homeless,_as_numbers_keep_rising.

¹⁹ See Margaret Whitehead et al., *Poverty, Health and Covid-19*, BRITISH MED. J. 372, n. 376 (2021).

²⁰ Catherine Rollot, *Une famille pauvre exclue du musée d'Orsay*, LE TEMPS 3 (Jan. 31, 2013), <https://www.letemps.ch/culture/une-famille-pauvre-exclue-musee-dorsay>.

²¹ Lucile Jamet & Christelle Thouilleux, *Davantage de Victimes de vol ou D'agression Parmi les Sans-Domicile*, INSTITUT NATIONAL DE LA STATISTIQUE ET DES ETUDES ECONOMIQUES (Insee) (Nov. 18, 2012), <https://www.insee.fr/fr/statistiques/1304053>

²² Giuseppe Moscelli, Luigi Siciliani, Nils Gutacker & Richard Cookson, *Socioeconomic Inequality of Access to Healthcare: Does Choice Explain the Gradient?*, J. HEALTH ECON. 57:290-314 (2018).

²³ Human Rights Watch, *US Criminal Justice System Fuels Poverty Cycle: UN Official Speaks Out for Reform* (June 12, 2018), <https://www.hrw.org/news/2018/06/21/us-criminal-justice-system-fuels-poverty-cycle>.

²⁴ Hans Dubois & Hanna Ludwinek, *Eurofound, Access to Social Benefits: Reducing Non-Take-Up*, PUBL'NS OFF. EUR. UNION (Sept. 21, 2015). <https://www.eurofound.europa.eu/publications/report/2015/social-policies/access-to-social-benefits-reducing-non-take-up>.

²⁵ ECtHR, *Soares de Melo v Portugal* (Feb. 16, 2016); ECtHR, *Wallova and Walla v. Czech Republic* (Oct. 26, 2006). For an analysis see Alicia-Dorothy Mornington and Alexandrine Guyard-Nedelec, *Is Poverty Eroding Parental Rights in Britain? The Case of Child Protection in the Early Twenty-First Century* in Nicolas Brando and Gottfried Schweiger, (Eds.) PHILOSOPHY AND CHILD POVERTY: REFLECTIONS ON THE ETHICS AND POLITICS OF POOR CHILDREN AND THEIR FAMILIES (2019)

²⁶ See Owen Jones, CHAVS: THE DEMONIZATION OF THE WORKING CLASS (2016).

²⁷ For a comprehensive analysis of the neoliberal defense of inequality, see THOMAS BIEBRICHER, THE POLITICAL THEORY OF NEOLIBERALISM (2018). See also FRIEDERICH HAYEK, THE CONSTITUTION OF LIBERTY (2011).

²⁸ MILTON FRIEDMAN, CAPITALISM AND FREEDOM (1962, 2002).

²⁹ *The Threat from the Liberal Left*, The Economist, 2021.

³⁰ See Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution*, CONTEMP. POL. THEORY (2015); Nancy Fraser, *From Progressive Neoliberalism to Trump—and Beyond*,

American Affairs 1(4): 46–64 (2017); Thomas Piketty, *Capital in the Twenty-First Century*, (2014); Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (2019).

³¹ My own scholarly approach to class is heavily influenced by the highly sophisticated framework developed by Pierre Bourdieu. His notion of capital comprising four distinct forms (economic, social, symbolic, and cultural) deeply informs my own approach. See Pierre Bourdieu, *The Forms of Capital*, in J. Richardson (ed.), *HANDBOOK FOR THE THEORY AND RESEARCH FOR THE SOCIOLOGY OF EDUCATION* 241-58 (1986). See also his co-edited volume Pierre Bourdieu, *THE WEIGHT OF THE WORLD: SOCIAL SUFFERING IN CONTEMPORARY SOCIETY* (Priscilla Parkhurst Ferguson trans., 1999).

³² While the concept of class has received a great deal of attention within academic circles, the actual lived experiences of the poor have received far less attention. There are some notable exceptions, which provide far more ethnographic evidence of the challenges the poor face as a class of people. See RICHARD SENNETT & JONATHAN COBB, *THE HIDDEN INJURIES OF CLASS* (1972). For more recent accounts from the US and the UK, see ARLIE RUSSELL HOCHSCHILD, *STRANGERS IN THEIR OWN LAND: ANGER AND MOURNING ON THE AMERICAN RIGHT* (2016); DARREN MCGARVEY, *POVERTY SAFARI: UNDERSTANDING THE ANGER OF BRITAIN'S UNDERCLASS* (2017); JOAN C. WILLIAMS, *WHITE WORKING CLASS: OVERCOMING CLASS CONSCIOUSNESS IN AMERICA* (2017).

³³ Marcus Lu, World Economic Forum, *Is the American Dream Over? Here's What the Data Says* (Sept. 2, 2020), <https://www.weforum.org/agenda/2020/09/social-mobility-upwards-decline-usa-us-america-economics/>.

³⁴ *Id.*

³⁵ World Economic Forum, *The Global Social Mobility Report 2020: Equality, Opportunity and a New Economic Imperative* (Jan. 2020), https://www3.weforum.org/docs/Global_Social_Mobility_Report.pdf.

³⁶ Social Mobility Commission, *State of the Nation 2021: Social Mobility and the Pandemic* p. xv (2021), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1003977/State_of_the_nation_2021_-_Social_mobility_and_the_pandemic.pdf.

³⁷ *Id.*

³⁸ Kate Malleson, *Equality Law and the Protected Characteristics*, 81 *MODERN L. REV.* 598, 612 (2018).

³⁹ This has been recognized by the OHCHR, *Guiding Principles on Extreme Poverty and Human Rights* (2012), https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR_ExtremePovertyand

HumanRights_EN.pdf.

⁴⁰ *Id.*

⁴¹ See Aryeh Neier, *Social and Economic Rights: a critique* 13 HUMAN RIGHTS BRIEF 1 (2006). It was also repeated more recently in CHRISTIAN TOMUSCHAT, HUMAN RIGHTS; BEYOND IDEALISM AND REALISM (2014).

⁴² For examples of this critical appraisal of the human rights movement's engagement with poverty and inequality, see SAMUEL MOYN, NOT ENOUGH: HUMAN RIGHTS IN AN UNEQUAL WORLD (2018); GRAINNE DE BURCA, REFRAMING HUMAN RIGHTS IN A TURBULENT ERA (2021); MARK GOODALE, REINVENTING HUMAN RIGHTS (2022); DAVID HARVEY, A BRIEF HISTORY OF NEOLIBERALISM (2005); David Kennedy, *The International Human Rights Movement: Part of the Problem?*, 15 HARV. HUM. RTS. J. 101, 109 (2002).

⁴³ DE BURCA, HUMAN RIGHTS, *supra* note 42 at 217.

⁴⁴ For an illustrative, though non-exhaustive, list of relevant international standards, see Articles 1 and 55 of the Charter of the United Nations (1955), Articles 22 and 25 of the Universal Declaration of Human Rights (1948), Articles 9, 11, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights (1966), Article 6(1) of the International Covenant on Civil and Political Rights (1966), Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (1965), Articles 11, 12, 13 and 14 of the Convention on the Elimination of All Forms of Discrimination against Women (1979), Articles 24 and 27 of the Convention on the Rights of the Child (1989), Articles 24 to 30 and 43 of the International Protection of the Rights of all Migrants Workers and Their Families (1990), Article 28 of the Convention on the Rights of Persons with Disabilities (2002), Articles 4, 11-17, and 19, 23, 30 and 31 of the European Social Charter (revised) (1961), Article 4 of the Additional Protocol to the European Social Charter (1988). See also Sustainable Development Goal 10.

⁴⁵ See UN Committee on Economic, Social and Cultural Rights, *General Comment No. 20 Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)* E/C.12/GC/20, 2 July 2009.

⁴⁶ Office of the High Commissioner for Human Rights, *UN Guiding Principles on Extreme Poverty and Human Rights* (2012), https://www.ohchr.org/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf

⁴⁷ Professor Philip Alston, Statement on Visit to the United Kingdom, November 2018, https://www.ohchr.org/sites/default/files/Documents/Issues/Poverty/EOM_GB_16Nov2018.pdf.

⁴⁸ *Id.*

⁴⁹ See MOYIN, *supra* note 42. See also HARVEY, *supra* note 42.

⁵⁰ See PIKETTY, CAPITAL *supra* note 30 for a meticulously detailed account of this.

⁵¹ For a critique of the myth of meritocracy which underpins the notion of a level playing field in the pursuit of wealth and opportunity, see Michael Sandel, THE TYRANNY OF MERIT: WHAT'S BECOME OF THE COMMON GOOD (2020).

⁵² <https://arxiv.org/pdf/2104.07379.pdf>

⁵³ Although, as I shall argue later in this paper, while poverty disproportionately impacts marginalized communities, many members of such communities are actually not poor, and often times, an overly-generalized account of identity-based discrimination fails to differentiate between these crucial internal disparities in peoples' exposure to injustice. For a more detailed analysis of this claim, see MALLESON, *supra* note 38.

⁵⁴ United Nations Department of Economic and Social Affairs, *World Social Report 2020 Inequality in a Rapidly Changing World*, 128 (2020).

⁵⁵ ADD CITE.

⁵⁶ See The United States Department of Justice, *Laws We Enforce* (Dec. 9, 2022).

⁵⁷ The US Supreme Court refused to extend equality provisos to include people based on their poverty, drawing a sharp line between status and poverty. *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 93 S. Ct. 1278 (1973). In the UK, lawmakers debated the inclusion of social class as a potential protected characteristic when drawing up the 2010 Equality Act, but ultimately chose not to do so. Equality Act, 2010 (2010 c. 15).

⁵⁸ United Nations Human Rights Office of the High Commissioner, *Guiding Principles on Extreme Poverty and Human Rights*, at 2, 13-14 (2012).

⁵⁹ Council of Europe, *European Convention on Human Rights*, at 13, 51 (2021).

⁶⁰ Official Journal of the European Communities, *Charter of Fundamental Rights of the European Union*, E.N. Doc. C 364/01, at 13 (Dec. 18, 2000).

⁶¹ United Nations Economic and Social Council, *Committee on Economic, Social and Cultural Rights General Comment No. 20*, U.N. Doc. E/C.12/GC/20, at 7 (June 10, 2009).

⁶² See Janneke Gerards, *The Grounds of Discrimination*, in CASES, MATERIALS, AND TEXT ON NATIONAL, SUPRANATIONAL, AND INTERNATIONAL NON-DISCRIMINATION LAW 33-184 (Dagmar Schiek et al., eds., 2007).

⁶³ In Canada, for example, a number of provinces prohibit discrimination on the basis of 'source

of income’ or ‘receipt of public assistance.’ See Ontario Human Rights Commission, *Prohibited Grounds of Discrimination*, <http://www.ohrc.on.ca/en/human-rights-and-rental-housing-ontario-background-paper/prohibited-grounds-discrimination>; see also Const. of the Republic of Cyprus Aug. 16, 1960, art. 28.2 (CY) (expressly prohibiting discrimination on the basis of “social descent, birth, wealth, social class.”); The South African Promotion of Equality and Prevention of Unfair Discrimination (Act No. 4/2000 § xxvi) (defining socio-economic status to include the “social or economic condition or perceived condition of a person who is disadvantaged by poverty, low employment status, or lack of or low-level educational qualifications”).

⁶⁴ Sarah Ganty, *Poverty as Misrecognition: What Role for Anti-discrimination Law in Europe?*, European University Institute Department of Law Working Paper 2020/12, 8 (Oct. 19, 2020).

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.* at 5.

⁶⁸ United Nations Human Rights Office of the High Commissioner, *supra* note 58, at 5-6.

⁶⁹ See Shreya Atrey, *The Intersectional Case of Poverty in Discrimination Law*, 18 HUMAN RIGHTS L. REV. 411 (2018); Sandra Fredman, *Redistribution and Recognition : Reconciling Inequalities*, SOUTH AFRICAN J. HUM. RTS., 23:2, 214-234 (2007); Wayne MacKay and Natasha Kim, *Adding Social Condition to the Canadian Human Rights Act*, CAN. HUM. RTS. COMM. (2009); Juan Carlos Benito Sánchez, *Towering Grenfell: Reflections around Socioeconomic Disadvantage in Antidiscrimination Law*, QUEEN MARY HUM. RTS. L. REV. 5(2) 1–19 (2009); Geraldine Van Bueren QC, *Inclusivity and the Law: Do We Need to Prohibit Class Discrimination?*, 21 EUR. HUM. RTS. L. REV., 274-284 (2021).

⁷⁰ GANTY, *supra* note 64, at 2.

⁷¹ Van Bueren, *supra* note 69, at 274.

⁷² *Id.* at 275.

⁷³ Needless to say, this is a point which has been made many times before by socialists and Marxists, although it has rarely been made within human rights circles in addressing poverty and inequality within affluent societies. My thinking has been heavily influenced by several Marxist and Critical theorists, including Theodor Adorno, Nancy Fraser, Walter Benn Michaels, and Slavoj Žižek.

⁷⁴ Attanasio Orazio et al., *Early Childhood Development, Human Capital and Poverty* (2021).

⁷⁵ See Charles Taylor, ‘*The Politics of Recognition*’ in MULTICULTURALISM AND THE POLITICS OF RECOGNITION 25-74 (A. Gutmann, ed., 1992); NANCY FRASER, JUSTICE INTERRUPTSUS: CRITICAL

REFLECTIONS ON THE POSTSOCIALIST CONDITION (1997). *See also* Nancy Fraser, *Rethinking Recognition*, 3 *New Left Review* 107 (2000). For a comprehensive engagement with a variety of critical perspectives upon Fraser’s approach, see Nancy Fraser & Kevin Olson, *ADDING INSULT TO INJURY: SOCIAL JUSTICE AND THE POLITICS OF RECOGNITION* (2008).

⁷⁶ ADD CITE.

⁷⁷ For an analysis of the significance of recognition rights for the human rights movement, see Kathryn Sikkink, *EVIDENCE FOR HOPE: MAKING HUMAN RIGHTS WORK IN THE 21ST CENTURY* (2017).

⁷⁸ Commentators have repeatedly pointed to the growing authoritarian and demagogic backlash against such rights achievements across many high-income, liberal democratic societies. See William Galston, *ANTI-PLURALISM: THE POPULIST THREAT TO LIBERAL DEMOCRACY* (2018). Gerald L. Neuman, (ed.) *HUMAN RIGHTS IN A TIME OF POPULISM: CHALLENGES AND RESPONSES* (2020)

⁷⁹ ADD CITE. Examples or source

⁸⁰ See James Griffin, *ON HUMAN RIGHTS* (2008). Andrew Fagan, *Cultural Harm and Determining the Limits of a Right to Cultural Identity*, 39 *Hum. Rts. Q.*, 319-40 (May 2017); WENDY BROWN, *STATES OF INJURY: POWER AND FREEDOM IN LATE MODERNITY* (1995); KWAME A. APPIAH, *THE LIES THAT BIND: RETHINKING IDENTITY* (2018).

⁸¹ BROWN,, *supra* note 80, at 52-76.

⁸² *See also* WALTER BENN MICHAELS, *THE TROUBLE WITH DIVERSITY: HOW WE LEARNED TO LOVE IDENTITY AND IGNORE INEQUALITY* (10th anniv. ed. 2016).

⁸³ BROWN, *supra* note 80.

⁸⁴ This point is made forcefully by BENN MICHAELS, *supra* note 82 and more recently by OLÚFÉMI O. TÁÍWÒ, *ELITE CAPTURE: HOW THE POWERFUL TOOK OVER IDENTITY POLITICS (AND EVERYTHING ELSE)* (2022).

⁸⁵ *See* HOCHSCHILD, *supra* note 32.

⁸⁶ Andrew Fagan, *The Gentrification of Human Rights*, 41 *Hum. Rts. Q.* 283 (2019).

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ There is a sizable body of academic literature that addresses the specific and wider conditions out of which the so-called “new middle classes” came to increasingly influence, and provides

support for neoliberal socio-economic and political developments. See a number of scholars make this argument: *See e.g.*, DANIEL BELL, *THE COMING OF THE POST-INDUSTRIAL SOCIETY: A VENTURE IN SOCIAL FORECASTING* (1973); BARBARA EPSTEIN, *POLITICAL PROTEST AND CULTURAL REVOLUTION: NONVIOLENT DIRECTION IN THE 1970S AND 1980S* (1991); ALVIN W. GOULDNER, *THE FUTURE OF INTELLECTUALS AND THE RISE OF THE NEW CLASS* (1979); FRANK PARKING, *MIDDLE CLASS RADICALISM: THE SOCIAL BASES OF THE BRITISH CAMPAIGN FOR NUCLEAR DISARMAMENT* (1968); RONALD INGLEHART, *THE SILENT REVOLUTION: CHANGING VALUES AND POLITICAL STYLES AMONG WESTERN PUBLICS* 22 (1977); Steven Brint, *New-Class and Cumulative Trend Explanations of the Liberal Political Attitudes of Professionals*, 90 *Am. J. Socio.* 30-71 (1984); John W. Cleveland, *Does the New Middle Class Lead Today's Social Movements?* 29 *Crit. Socio.* 163-88 (2003).

⁹⁰ *See also* HUMAN RIGHTS AND ECONOMIC EQUALITIES (Gillian MacNaughton, et al., eds., 2021).

⁹¹ BENN MICHAELS, *supra* note 82, at 78.

⁹² Nancy Fraser, *THE OLD IS DYING AND THE NEW CANNOT BE BORN: FROM PROGRESSIVE NEOLIBERALISM TO TRUMP AND BEYOND* (2019).

⁹³ *Id.*

⁹⁴ This follows and refines the argument which Stephen Hopgood has presented. Stephen Hopgood, *THE ENDTIMES OF HUMAN RIGHTS* (2013).

⁹⁵ One outstanding example of this is the human rights-based activities of the civil society organization, Participation and the Practice of Rights (PPR), based in Belfast, which campaigns for rights to work, welfare and housing. Participation and Practice of Rights, <https://www.nlb.ie> For other examples of similar community-based human rights work see Paul Hunt, *SOCIAL RIGHTS ARE HUMAN RIGHTS: BUT THE UK SYSTEM IS RIGGED* (2017).

⁹⁶ *Id.*

⁹⁷ **ADD CITE.** This may or may not be the same as the one above

⁹⁸ For an example of a particularly one-dimensional depiction of populism and human rights, see United Nations Office of the High Commissioner for Human Rights, *Zeid Warns Against Populists and Demagogues in Europe and U.S.*, UNITED NATIONS, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20452&LangID=E>. *See also Pushback Against the Populist Challenge*, HUMAN RIGHTS WATCH, <https://www.hrw.org/world-report/2018/pushback-against-the-populist-challenge>.

⁹⁹ Andrew Fagan, *The Human (Rights) Face of Populism*, FABIAN SOCIETY, <https://fabians.org.uk/the-human-rights-face-of-populism/>. *See also* Philip Alston, *The Populist Challenge to Human Rights*, 9

HUMAN RIGHTS PRACTICE 1, 1-15 (2017).

¹⁰⁰ For a detailed and nuanced analysis of the electoral demographics of the 2016 US Presidential election, see *An examination of the 2016 electorate, based on validated voters*, PEW RESEARCH CENTER, <https://www.pewresearch.org/politics/2018/08/09/an-examination-of-the-2016-electorate-based-on-validated-voters/>. See also, Jon Henley, *White and Wealthy Voters Gave Victory to Donald Trump, exit polls show*, THE GUARDIAN, <https://www.theguardian.com/us-news/2016/nov/09/white-voters-victory-donald-trump-exit-polls>.

¹⁰¹ REFERENCE TO INCLUDE.

¹⁰² In Fagan's (INCLUDE REFERENCE) article, he specifically analyzed the UK human rights community's response to the Grenfell Tower fire as a disturbing example of how poverty and inequality are largely misunderstood and side-lined in calls for inquiries, which make no mention of the deeper, structural factors of poverty and inequality that leave a great many people with little to no alternative options to living in dangerous housing. Fagan, *supra* note 99.

¹⁰³ In advocating for a radical approach to taking class seriously, Fagan depart from the position recently advocated for by arguably the most prominent critic of the failure of human rights to address social inequality and poverty, Samuel Moyn. In a recent publication, Moyn explicitly argued that we can overcome our failings without departing from a long-standing and pervasive normative adherence to a less current understanding of liberalism. In a series of subsequent future articles, Fagan will argue taking class seriously and even engaging more effectively with a variety of identity politicking challenges cannot be satisfactorily delivered within a liberal framework. For Moyn's recent publication, see Samuel Moyn, *Human Rights and the Crisis of Liberalism*, in HUMAN RIGHTS FUTURES 261 (Stephen Hopgood, Jack Snyder & Leslie Vinjamuri eds., 2017).

¹⁰⁴ Thus, Fagan's de-gentrified approach clearly contradicts the neutrality doctrine of IHRL contained within General Comment No. 3, *The Nature of States Parties' Obligations* (1990) of the Committee for Economic, Social and Cultural Rights, which holds that the ICESCR is neutral upon issues of socialist or capitalist political and economic systems and through which economic models are not subject to the level of scrutiny required to address extreme differences in income and wealth. Comm. on Econ., Soc. and Cultural Rights (CESCR), *General Comment 3*, ¶ 8, U.N. Doc E/1991/23 (December 14, 1990)