

When All We Have is Each Other: Failures of the Current Human Rights  
Framework to Address Structural Oppression & the Transformative Potential of  
Mutual Aid Networks

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## Abstract

This paper presents a critique of current human rights frameworks in addressing structural oppression, particularly as it relates to poverty. Despite the recognition in international and domestic human rights law to the right to life and to an adequate standard of living, poverty remains pervasive and economic disparities both within and between countries continue to grow. The author examines how and why this failure persists and highlights the transformative potential of mutual aid networks in ensuring a more equitable and just society.

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## Introduction

Is it not violent for a child to go to bed hungry in the richest country in the world? I think that is violent. But that type of violence is so institutionalized that it becomes a part of our way of life. Not only do we accept poverty, we even find it normal. And that again is because the oppressor makes his violence a part of the functioning society. – Civil rights leader Kwame Ture<sup>1</sup>

In the above quote, Kwame Ture provides an alternative to the grand narrative that is pervasive in Western capitalist societies, which is that poverty is an individual failing, the result of a person not working hard enough or making the right choices. The circumstances that the impoverished person is in, are of their own making, which consequently allows society to remove themselves from a feeling of social responsibility. Instead, as Ture suggests, poverty is characterized as institutionalized violence that has become socially acceptable in what we conceive as a ‘functioning society.’ The form of violence that Ture is referring to is what we know today as structural violence. Coined by Johan Galtung in the 1960’s, structural violence refers to the often-invisible harm built into societal structures and institutions that ultimately “shows up as unequal power and consequently as unequal life chances.”<sup>2</sup>

Juxtaposed against the legal actuality that state signatories to Article 25(1) of the *Universal Declaration of Human Rights (UDHR)* have agreed that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services”<sup>3</sup> and coupled with the reality that there is enough wealth in the world to eradicate poverty, enough food on the planet so no one has to starve, and medicines available so no one has to die of preventable illness, or to put it bluntly, that the notion of scarcity is false, the question then becomes – how it is that the rights of millions of people who experience unacceptable levels of deprivation and violence are so blatantly violated?

The aim of this paper, therefore, is to explore how and why the current human rights framework has failed in light of the pervasiveness of poverty and growing economic inequalities both within states and between them, while also highlighting the ways in which people have come

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<sup>1</sup> *Stokely Speaks: From Black Power to Pan Africanism* (Chicago: Chicago Review Press, 1971) at 168.

<sup>2</sup> Johan Galtung, “Violence, peace and peace research” (1969) 6:3 JPR 167 at 171.

<sup>3</sup> *Universal Declaration of Human Rights*, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) 71.

together to build horizontally structured mutual aid-based networks of community care when they have been unable to rely on the state to provide the resources and support required to survive and live a dignified life.

As a student of critical theory and later critical legal studies, I have been taught to question normative discourse; to think critically about why things are the way they are and place the issues I am studying within the broader contexts in which they exist, in order to uncover power dynamics and bring to light the systems and structures in society that contribute to oppression and uphold the status quo.<sup>4</sup> One of the main themes running throughout this paper is the failure of human rights analysis to place human rights themselves within the broader context of the systems in which they operate. An in-depth literature review reveals that current human rights analysis as it relates to poverty takes a relatively narrow focus by concentrating primarily on a right to ‘a minimum level of subsistence’ and the need for states to be held accountable for the prioritization of social, economic, and cultural rights. In doing so, this fails to take into account the bigger picture, which means that systemic issues are largely ignored. Consequently, a goal of this discussion is to situate poverty and human rights within the dominant economic and political systems in which they exist.

It is my hope this paper will also foster a discussion regarding the current foundation and direction of human rights frameworks and language, which are largely based in individual entitlements and state duties, while also inspiring others to imagine a world that is different than this one, where collective duty and responsibility ensure community and individual wellbeing. As someone who was born and raised into the systems and structures that govern us today, it can be difficult to even begin to comprehend what an alternative vision of society could look like, however, I believe it is our responsibility to contend with these questions even if doing so is deemed utopian. Ultimately, it is my belief that it does not have to be this way – that is it possible to establish a more equitable society and that the foundations of Western society that maintain and perpetuate systemic oppression, ie. patriarchy, colonialism, white supremacy, and capitalism, which are deeply ingrained in society and indoctrinated in its people, can and must be uprooted and the way forward is to imagine and create something new.

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<sup>4</sup> Mehmoona Moosa-Mitha, “Situating Anti-Oppressive Theories within Critical and Difference-Centered Perspectives” in Susan Strega & Leslie Brown, eds, *Research is Resistance: Revisiting Critical, Indigenous, and Anti-Oppressive Approaches* (Toronto: Canadian Scholar’s Press, 2015) 65; Margaret Kovach, *Indigenous Methodologies: Characteristics, Conversations, and Contexts* (Toronto: University of Toronto Press, 2009) at 92; Lee McConnell, “Legal Theory as a Research Methodology” in Lee McConnell & Rhona Smith, eds, *Research Methods in Human Rights* (New York: Routledge, 2018) 42 at 62-67.

## Poverty and Growing Inequality: What's at Stake?

Poverty is a complex concept that can be defined and measured in multiple ways. At its most basic and uncontested, poverty can be considered a “pronounced deprivation of wellbeing,”<sup>5</sup> although considerations of what constitutes wellbeing will differ. While poverty is mainly spoken of and thought about in relation to economic and material deprivation, it is recognized that the causes and impacts of poverty are far-reaching.

If we are to consider the extent of poverty globally, we can look to the World Bank that estimates that there are 689 million people who live in extreme poverty, falling below the international poverty line of \$1.90US a day.<sup>6</sup> When measured beyond income to include the deprivation of standards of living, health, and education, the number of people experiencing poverty rises to 1.3 billion.<sup>7</sup> With that said, the persistence and impacts of poverty are not exclusive to low-income countries.

In high-income countries like Canada, where wealth and resources are vast, there are 3.2 million people experiencing poverty,<sup>8</sup> according to the Market Basket Measure (MBM), which measures poverty based on the costs associated with a “basket of goods and services representing a modest, basic standard of living in Canada.”<sup>9</sup> This number grows to 5.9 millions people when calculated using the Low-Income Measure (LIM), which estimates poverty relatively and characterizes the poverty line as income falling below the median of Canadian household incomes.<sup>10</sup>

Economic measurements and statistics of poverty present a relatively limited understanding of what is it like to actually experience poverty. The United Nations Economic and Social Council recognizes that,

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<sup>5</sup> Jonathan Haughton & Shahidur Khandker, *Handbook on Poverty and Inequality* (Washington, DC: World Bank, 2009) at 1.

<sup>6</sup> World Bank, “Poverty: Overview” (7 October 2020), online: *World Bank* <<https://www.worldbank.org/en/topic/poverty/overview>>.

<sup>7</sup> United Nations Development Programme, “Global Multidimensional Poverty Index 2020: Charting pathways out of multidimensional poverty” (2020) at 3, online (pdf): *UNDP* <[http://hdr.undp.org/sites/default/files/2020\\_mpi\\_report\\_en.pdf](http://hdr.undp.org/sites/default/files/2020_mpi_report_en.pdf)>.

<sup>8</sup> Statistics Canada, “Canadian Income Survey, 2018,” (Press Release) (Ottawa: 24 February, 2020) at 1, online (pdf): <<https://www150.statcan.gc.ca/n1/en/daily-quotidien/200224/dq200224a-eng.pdf?st=j-3Yqxlu>>.

<sup>9</sup> Statistics Canada, *Report on the second comprehensive review of the Market Basket Measure* Income Research Paper Series by Samir Djidel et al, Catalogue No 75F0002M (Ottawa: 24 February, 2020) at 3, online (pdf): <<https://www150.statcan.gc.ca/n1/en/pub/75f0002m/75f0002m2020002-eng.pdf?st=tnifRC6T>>.

<sup>10</sup> Natalie Appleyard, “Poverty Trends 2020: Rights & Realities in Canada” (October 2020) at 6, online (pdf): *Citizens for Public Justice* <<https://cpj.ca/wp-content/uploads/2020/09/Poverty-Trends-2020.pdf>>.

Fundamentally, poverty is a denial of choices and opportunities, it is a violation of human dignity. It means lack of basic capacity to participate effectively in society. It means not having enough to feed and clothe a family, not having a school or a clinic to go to, not having the land on which to grow one's food or a job to earn one's living... It means insecurity, powerlessness and exclusion of individuals, households and communities.<sup>11</sup>

As this definition illustrates, the experience of poverty goes far beyond income and the ability to access services. It is the dehumanizing nature of poverty that ultimately makes it violent and an abuse of human dignity.

If poverty is considered a 'pronounced deprivation of well-being,' critical discussions of the experience and reality of poverty must therefore incorporate discussions on how well-being itself is distributed in society. Haughton & Khandker describe poverty as "related to, yet distinct from, inequality,"<sup>12</sup> in that inequality focuses on with the full distribution of well-being, while poverty is focused on those who fall below the poverty line or the lower end of the distribution of well-being.<sup>13</sup> For the purposes of our discussion, it is important to understand this connection as what we are ultimately trying to uncover is why some are left to live a life where their survival and dignity are threatened while others are able to readily secure what is needed to live comfortably and enjoy the 'good life.'

Inequalities related to poverty are similarly most often measured in terms of income and wealth and this inequality is increasing both on a global scale and within states, including in North America.<sup>14</sup> Globally, in 2020, there simultaneously were 2,095 people in the world who had amassed wealth of over \$1 billion, while 3.5 billion people lived on less than \$5.50USD per day.<sup>15</sup> Oxfam has estimated that the billionaires of the world hold more wealth than 4.6 billion people or

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<sup>11</sup> United Nations Economic and Social Council, "Statement of Commitment for Action to Eradicate Poverty Adopted by Administrative Committee on Coordination," Press Release ECOSOC/5759 (New York: United Nations, 20 May 1998) at para 3, online: <<https://www.un.org/press/en/1998/19980520.eco5759.html>>.

<sup>12</sup> Haughton & Shahidur Khandker, *supra* note 5 at 3.

<sup>13</sup> Brigitte Rohwerder, *Poverty and Inequality: Topic guide* (Birmingham, UK: GSDRC, University of Birmingham, 2016) at 4.

<sup>14</sup> Facundo Alvaredo et al. "World Inequality Report 2018" (2017) at 9, online (pdf): *World Inequality Lab* <<https://wir2018.wid.world/files/download/wir2018-summary-english.pdf>>.

<sup>15</sup> "Forbes Publishes 34th Annual List Of Global Billionaires," *Forbes* (7 April 2020), online: <<https://www.forbes.com/sites/forbespr/2020/04/07/forbes-publishes-34th-annual-list-of-global-billionaires/?sh=340f620b3edf>>.

60% of the global population and more starkly, that the richest 1% have more than twice the wealth of 6.9 billion people.<sup>16</sup>

This severe discrepancy in income and wealth also exists and is growing in countries like Canada. Not only does the richest 1% in Canada control 26% of the total wealth, Canada's billionaires hold 4,448 times the wealth of the typical Canadian family.<sup>17</sup> Further, a recent Canadian Centre for Policy Alternatives policy note has estimated that within the first 6 months of the global pandemic, when millions of Canadians were facing significant and increasing economic loss and insecurity, Canada's top 20 billionaires gained \$37 billion in wealth or roughly \$2 billion each.<sup>18</sup>

Much like poverty, where economic measurements fail to capture the broad, deep and lasting impacts of poverty on the lives of the people it effects, painting inequality solely in economic terms neglects the ways inequality permeates throughout our societies. Income and wealth inequality preserve and perpetuate inequalities in social outcomes like health and education and, as will be discussed in greater detail below, inequalities in political participation and representation, as "inequalities depress political participation, giving more space to particular interest groups to shape decisions in their favour. Those privileged can then capture the system, moulding it to fit their preferences, potentially leading to even more inequalities."<sup>19</sup>

The recent *Human Development Report* by the United Nations Development Program (UNDP) has drawn attention to this issue, specifically by highlighting the role of power imbalances and the need to move beyond notions of income to adequately address growing inequality. Explained by UNDP,

Even understanding income disparities requires examining other forms of inequality. Disadvantages in health and education (of one's parents and one's

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<sup>16</sup> Oxfam, "Time to Care: Unpaid and Underpaid work and the Global Inequality Crisis" (January 2020) at 8-9, online (pdf): *Oxfam* <<https://42kgab3z3i7s3rm1xf48rq44-wpengine.netdna-ssl.com/wp-content/uploads/2020/01/Time-to-Care-Report-January-20-2020-EN-Final.pdf>>.

<sup>17</sup> Parliamentary Budget Officer, *Estimating the top tail of the family wealth distribution in Canada*, by Nigel Wodrich & Aidan Worswick (Ottawa: Office of the Parliamentary Budget Officer, 17 June 2020), at 20; David MacDonald, "Born to Win: Wealth concentration in Canada since 1999" (July, 2018) at 4, online (pdf): *Canadian Centre for Policy Alternatives* <<https://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2018/07/Born%20to%20Win.pdf>>.

<sup>18</sup> Canadian Centre for Policy Alternatives, "Canada's top billionaires are \$37 billion richer since start of the pandemic (16 September 2020), online: *CCPA* <<https://www.policyalternatives.ca/newsroom/news-releases/billionaires-wealth-pandemic>>.

<sup>19</sup> United Nations Development Programme, "Human Development Report 2019: Beyond income, beyond averages, beyond today" (2019) at 11, online (pdf): *UNDP* <<http://hdr.undp.org/sites/default/files/hdr2019.pdf>>.

own) interact and often compound over a lifetime. Gaps open before birth, starting with the “birth lottery” of where children happen to be born, and can widen over the years. Children from poor families may not be able to afford an education and are at a disadvantage when they try to find work. These children are likely to earn less than those in higher income families when they enter the labour market, when penalized by compounding layers of disadvantage.<sup>20</sup>

Therefore, inequalities in human development, more generally, begins before birth and accumulates throughout life, “frequently heightened by deep power imbalances” and “driven by factors deeply embedded in societies, economies and political structure.”<sup>21</sup> In this way, poverty and inequality become cyclical and generational as marginalization becomes entrenched. An adequate response to the depths of inequality consequently requires challenging well-established interests, including “the social and political norms embedded deep within a nation’s or group’s history and culture”<sup>22</sup> and any failure to address these issues at a systemic level only further consolidates the political dominance of the wealthy and powerful by allowing them to “shape policies that favour themselves and their children – as they often do – that can sustain the accumulation of income and opportunity at the top.”<sup>23</sup>

### Human Rights: Frameworks and Foundations

Human rights themselves are highly contested. Philosophical debates regarding the foundation and nature of rights can be found throughout multiple disciplines and depending on a person’s theoretical and disciplinary leanings, versions of what rights should be recognized and how they should be protected and ensured will differ. While some will narrowly engage with human rights discourse much like legal positivists that view human rights to only exist solely in relation to the state, when created by and enshrined within the legal system,<sup>24</sup> it is commonly held today that human rights are individual entitlements that derive from the inherent worth and dignity of every human being and therefore exist regardless of whether they are recognized by law, in that the law is understood to be the protective mechanism that ensures inherent rights are respected, protected and fulfilled. Theoretically and in practice, rights and duties can be argued to be relative,

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<sup>20</sup> *Ibid* at 5.

<sup>21</sup> *Ibid* at 3.

<sup>22</sup> *Ibid* at iii.

<sup>23</sup> *Ibid* at 11.

<sup>24</sup> McConnell, *supra* note 4.



meaning that rights imply duties and vice versa and the state, therefore, has a duty to ensure rights.<sup>25</sup> However, in today's world where human rights are meant to protect the most vulnerable and marginalized in society, the language and legal recognition of human rights can become meaningless and empty because unless a person is able to enjoy and benefit from the substance of the human right, they ultimately do not have a right in the most important sense of all.

Particular issues arise when considering what rights people hold and what duties are then placed on other agents.<sup>26</sup> While most accept that duties flow from rights, many theorists will not accept that a right necessarily flows from duties in that duties can exist irrespective of rights, therefore you may have a duty to do something, but it is not because someone has a specific right to it.<sup>27</sup> For those that argue that duties do imply rights, these duties do not stem from any one person's right but the rights of others collectively.<sup>28</sup> Stemming from these disagreements, is the notion of negative and positive rights. Negative rights impose a negative duty of non-interference while positive rights impose a positive duty on others to undertake some form of positive action to ensure that right is realized.<sup>29</sup> While seemingly straightforward, there is also immense debate over whether rights should be interpreted as implying negative or positive duties.<sup>30</sup> Negative rights like civil and political rights (first generation) are largely uncontested, however, social, economic and cultural rights (second generation), or rights that generally require positive duties, like the right to employment, can be interpreted in the positive or negative sense. So, while some argue that the right to employment is a negative right in that you truly only have the right to seek employment and that the duty placed on others is to not interfere as you seek employment, others interpret this as a right to a job, or a right that imposes a positive duty because in order for the right to be realized you must have employment, not just the opportunity.<sup>31</sup> This becomes particularly problematic when placed within the context of the current legal human framework, which is used as the accountability mechanism for ensuring that human rights are upheld and respected.

Contemporary international human rights law began with the signing of the *UDHR* in 1948 following the devastation of WWII, signalling the first mutually agreed upon set of universal

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<sup>25</sup> David Boersema, *Philosophy of Human Rights: Theory and Practice* (New York: Taylor & Francis, 2011) at 16.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid* at 7.

<sup>29</sup> *Ibid* at 73.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

rights of citizens and the corresponding duties the states would then be obligated to share. The creation of two separate documents, the *International Covenant on Civil and Political Rights (ICCPR)*<sup>32</sup> and the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*<sup>33</sup> is the result of the inability of states to come to an agreement regarding the equal importance of civil and political rights on the one hand, and economic, social, and cultural rights on the other.<sup>34</sup> This is a reflection of the contrasting political and economic values of member states and the dividing nature of the Cold War, which ultimately led to the dominance of Western liberal democratic capitalist societies over the opposing communist and socialist traditions. The rights enshrined in the *ICESCR* allow for progressive realization, which is meant to take into account the limited resources a state may have to help ensure those rights are realized.<sup>35</sup> Ultimately, it follows the logic that economic growth will accompany the prioritization of the opening of markets and the realization of civil and political rights and that economic growth will then in turn allow for the realization of economic, social and cultural rights.

#### Current Recommendations & Critical Reflections: The Influence of Political & Economic Systems

I have had the opportunity through the course of my academic career to study human rights through the lens of multiple disciplines including international development, political science and law. My studies have revolved around how poverty interacts with human rights, which rights are engaged when a person is experiencing poverty, the causes and implications of human rights violations related to experiences of poverty and the human rights actors, instruments, and mechanisms that are then used to ensure that these rights are protected. As a result, I have studied in-depth the laws, literature, and academic discourse related to social and economic rights including but not limited to the laws themselves, the supplementary documents provided by the governing institutions for those laws, and the related reports and recommendations from relevant organizations and academics that pertain to the protection and fulfilment of social and economic rights related to poverty. Drawing on these materials read and studied over 8 years, I am able to

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<sup>32</sup> *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171, Can TS 1976 No 47 (entered into force 23 March 1976) [*ICCPR*].

<sup>33</sup> *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 UNTS 3, Can TS 1976 No 46 (entered into force 3 January 1976, accession by Canada 19 May 1976) [*ICESCR*].

<sup>34</sup> Julia Dehm, "Righting Inequality: Human Rights Responses to Economic Inequality in the United Nations" (2019) 10:3 *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 443 at 445.

<sup>35</sup> *Ibid* at 445.

discern that the recommendations put forth by the majority of human rights scholars and the international human rights systems itself, has focused on the need for economic and social rights to be defined in terms of sufficiency levels or the satisfaction of basic needs and that states must be held accountable for the universality and indivisibility of all human rights.

Following the theme of the need to prioritize economic and social rights, many academics argue a need to establish a hierarchy of basic needs based on what is needed to survive. While giving considerations to the availability of resources of states, recommendations that are provided are loosely based around understandings of the universality of human nature similar to what is presented in Maslow's hierarchy of needs.<sup>36</sup> This hierarchy details what is necessary to ensure human survival, where "only when those basic needs are fulfilled can a human focus on higher needs and derive satisfaction from those higher needs."<sup>37</sup> However, criticisms have been mounted against the claim of the universality due to its foundation in individualism and its failure to take into account considerations related to the relationship between the individual and their community.<sup>38</sup> In fact, Maslow based his hierarchy on his time spent with the Blackfoot First Nation in Canada and he failed to fully incorporate "Blood First Nation understandings of ancestral knowledge, spirituality, and multiple dimensions of reality, nor did he fully situate the individual within the context of community."<sup>39</sup>

In his critical analysis of human rights, Moyn traces the development of human rights discourse and explores the impacts that larger systems have had on its development.<sup>40</sup> Moyn argues that current human rights discourse has been unsuccessful because it has been susceptible to influence from outside systems, including market fundamentalism and neoliberal policy. He argues that the tendency of recommendations to focus on the satisfaction and basic needs and minimum levels of subsistence are a result of such influence, as social rights that were at one time positively expressed and included notions of material equality and distributive justice, have now been coopted as negative assertions as a result of the dominance and power associated with Western liberal capitalist nations. With the rise of neoliberalism, social rights took on a "humanitarian

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<sup>36</sup> Alberto Quintavalla & Klaus Heine, "Priorities and human rights" (2019) 23:4 Int. J. Hum. Rights 679.

<sup>37</sup> *Ibid* at 686.

<sup>38</sup> Cindy Blackstock "The Emergence of the Breath of Life Theory" (2011) 8:1 Journal of Social Work Values and Ethics 1.

<sup>39</sup> *Ibid* at 3.

<sup>40</sup> Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 2018).

charity logic,”<sup>41</sup> while failing to challenge the growing economic inequality and the harmful impacts of using neoliberal policy to raise the people experiencing poverty to a minimum level of subsistence.<sup>42</sup>

In today’s world, states are most commonly liberal democracies. This governance structure as based in the political philosophy of liberalism, where the individual is the primary right holder and the “primary social entity rather than the state, community, religious group, or any other collective.”<sup>43</sup> The principle role of the state is to protect the rights of individuals, where freedom is understood as freedom of personal choice insofar as it does not infringe of the rights of others.<sup>44</sup> Following from this, the state remains neutral in that it does not enforce a particular moral agenda, as it is up to individuals to determine their own interests.<sup>45</sup> As mentioned above, proponents of liberalism will agree that there is a right to not be harmed by others but they do not recognize a right to be helped by others “because your right to be helped by me is an infringement on my prior right to liberty.”<sup>46</sup>

On the other end of the political spectrum are governance structures that are based in communitarianism. While liberalism sees individuals as separate from their communities, communitarians view individuals as connected to each other. So, as liberals view individuals as isolated entities, they also place primary emphasis on the rights of individuals with little to no regard to responsibilities held in relation to others.<sup>47</sup> Communitarians on the other hand, believe that this ultimately leads to “neglect for the care of others and for the common good” and as such, the rights of individuals must be balanced with the responsibilities to other individuals and the community.<sup>48</sup> Within communitarian frameworks, rights are means of achieving well-being and therefore must be balanced against the “right and good.”<sup>49</sup>

When the *UNDR* was drafted in the 1940’s socialism and social democracies were well-established and according to Moyn, human rights were more generally understood to be collective

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<sup>41</sup> Lena Halldenius, “Not Enough: Human Rights in an Unequal World (Book Review)” (2020) 5:4 *Global Intellectual History* 385 at 4.

<sup>42</sup> Moyn, *supra* note 40 at 6.

<sup>43</sup> Boersema, *supra* note 25 at 175.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid* at 176.

<sup>47</sup> *Ibid* at 177.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

project of ensuring, at least to a point, peoples welfare.<sup>50</sup> With the collapse of socialism and social democracies following the Cold War, the dominance of liberalism and global capitalism saw the demise of communitarianism structures of governance and the entrenchment of neoliberal forms of governance and policy and, within this context, priorities were given to individualistic notions of human rights, which led to a blind spot in human discourse as the systemic issues created and perpetuated by capitalism and neoliberal economic policy went unchecked.<sup>51</sup>

Capitalism is well-established as our current reality. Despite the exploitative, coercive and predatory nature of capitalism, its appeal has been indoctrinated in society through the idea that within the capitalistic economic system, if you work hard enough you too can be successful. This helps engender a culture of the deserving and the undeserving, where basic rights are seen as a privilege that people must earn. Marxist theorists are particularly critical of the impacts of the capitalist system. According to Marxists like Susan Marks, capitalism is a system which is inherently exploitative and dependent on a relationship of prosperity and deprivation.<sup>52</sup> “Capital accumulation depends on labour exploitation, in turn made possible by the inequalities of bargaining power that arise from class divisions.”<sup>53</sup> The structure of the capitalist market, whereby “the ruling class owns the means of production, while the working class owns nothing but its own labour-power, that enables the ruling class to extract surplus-value” ultimately creates a world where the working class “works to support the ruling class and hence to reproduce the very conditions of their own subordination.”<sup>54</sup>

Neoliberalism, in particular, has greatly influenced the direction of human rights discourse. As stated by McIntyre, “the emergence of neo-liberal thought—first in economics in the 1970s but reaching imperialistically to the other disciplines—opposes anything that interferes with the “free” choices of individuals or the activities of the market.”<sup>55</sup> It is argued that neoliberalism has now established itself as “the dominant ideology of governance, the norm against which every

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<sup>50</sup> Moyn, *supra* note 40.

<sup>51</sup> Moyn, *supra* note 40; Kate Nash, “The Cultural Politics of Human Rights and Neoliberalism” (2019) 18:5 J. Hum. Rights 490.

<sup>52</sup> Susan Marks, “Exploitation as an International Legal Concept” in Susan Marks, ed., *International Law on the Left: Re-examining Marxist Legacies* (Cambridge University Press, 2008) 281.

<sup>53</sup> *Ibid* at 282.

<sup>54</sup> *Ibid* at 286.

<sup>55</sup> Richard McIntyre, “Globalism, Human Rights and the Problem of Individualism” (2003) 3:1 at 1.

exception was to be evaluated.”<sup>56</sup> Now dominating multiple disciplines, neoliberal thinkers share a “common opposition to socialism and social democracy”<sup>57</sup> and a shared understanding that material and economic deprivation can be solved by open and free markets, where personal and individual choice can be maximized.

Neoliberal policies have resulted in the ‘privatization of the commons,’ so services and spaces that are meant for the public have been either privatized for profit or cut back, including services like healthcare and transportation. The effect of neoliberal policy and its inherent individualism on human rights more generally has been a strict shift in interpretations of social rights from “from a substantive concern with outcomes to a procedural concern of equal opportunity,”<sup>58</sup> thereby failing to recognize the broader systemic and structural barriers that make equal opportunity impossible.

The usefulness of human rights frameworks must also be discussed in relation to the role of the state as a duty-bearer and as the institution that governs our society more generally. While some theorists adhere to the notion that the state is the “institutional mechanism of the general social interest” and that the state therefore reflects society,<sup>59</sup> others argue that the state is inherently violent due to the very nature of the state as institutional hierarchy and the idea that the state is a “human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory.”<sup>60</sup>

Many work from the foundational Hobbesian belief that coercion through the state is the exclusive source of social order and the only way to guard ourselves from anarchy and chaos.<sup>61</sup> What this assumption of the state fails to consider is the state’s role as a perpetrator of institutional violence. Poverty and inequality are not simply inevitable – poverty and inequality are a policy choice by the state.

Themes present throughout the critiques discussed thus far can be found in the political philosophy of anarchism. According to Jun and Lance, anarchism “is the least studied within the academy and the most widely mischaracterized” as it has been “routinely equated in popular

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<sup>56</sup> Umut, Ozsu, “Neoliberalism and Human Rights: The Brandt Commission and the Struggle for A New World” (2018) 81:4 Law & Contemp Probs 138 at 138.

<sup>57</sup> *Ibid* at 138.

<sup>58</sup> Dehm, *supra* note 34 at 452.

<sup>59</sup> Scott Turner, “Global Civil Society, Anarchy and Governance: Assessing an Emerging Paradigm” (1998) 35:2 JPR 25 at 27.

<sup>60</sup> *Ibid* at 28.

<sup>61</sup> *Ibid* at 34.

discourse and the press with nihilism and chaos.”<sup>62</sup> Instead, anarchism is a “systematic theory of non-hierarchical social organization designed to maximize both freedom and cooperation.”<sup>63</sup> In the discussion that follows, anarchist thought and principles of organization are highlighted through the praxis of grassroots responses to systemic oppression that have been exacerbated by the recent pandemic – the development of the growing number of mutual aid collectives.

### The Rise of Mutual Aid Networks – An alternative vision of the future

When the global pandemic began and people were confined to their homes and experiencing unprecedented insecurity from job loss, the inability to pay bills and expenses and even secure basic goods like toilet paper, mutual aid collectives sprung up in communities across North America to provide invaluable support to those who are vulnerable and often overlooked by state policies and responses. One of the largest, the DC Mutual Aid Network, which had evolved from a BLM organization that had formed to combat police violence against Black Americans, provides support to people who are vulnerable, including the elderly, people who are publicly housed and unhoused, and children.<sup>64</sup> The types of support involved are broad, ranging from grocery runs for seniors and those who are medically high-risk and programs to address food insecurity in children who are no longer attending school to coordinated driving and rides for essential needs and medical care.<sup>65</sup> The network disseminates accessible and up to date scientific information and available community resources, both on social media and through its networks of people, so effectively in fact, that the DC government hotline now directs people to the DC Mutual Aid Network when they are looking for information or resources.<sup>66</sup>

While focusing on meeting immediate survival needs, mutual aid networks also work within the broader context of changing the social, economic and political systems that have created and perpetuated the violence and exploitation that occurs as a result of the ingrained nature of white supremacy, colonization, patriarchy and capitalism, instead building the foundation of their

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<sup>62</sup> Nathan Jun & Mark Lance, “Anarchist Responses to a Pandemic: The COVID-19 Crisis as a Case Study in Mutual Aid” (2020) 30:3-4 *Kennedy Inst. Ethics J.* 361 at 364.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid* at 363-364.

<sup>65</sup> *Ibid.*

<sup>66</sup> Elizabeth O’Gorek, “Is The City’s COVID Helpline Directing Callers to DC Mutual Aid?” *HillRag* (16 April 2020), online: <<https://hillrag.com/2020/04/15/is-dc-covid-19-hotline-directing-callers-to-get-help-from-neighbors/>>; Jun and Lance, *supra* note 61 at 364.

networks on reciprocity, collectivity and solidarity. This is clearly reflected in the praxis of the DC Mutual Aid Network where they recognize that,

Mutual aid is political. Mutual aid projects recognize current systems as a fundamentally unjust, see the connections between our collective problems and various forms of oppression, and understand that building a more survivable society requires more than symbolic acts or pressuring government representatives - it requires each of us to actively create the world we want to see.<sup>67</sup>

While I have highlighted the work of a specific mutual aid network, it is important to note that hundreds of mutual aid collectives now exist across Canada and the U.S. that mirror the praxis of the DC Mutual Aid Network in ensuring both the immediate needs of the vulnerable and marginalized while simultaneously working to create the political, economic and social conditions necessary to develop more just systems.

It is critical to point out, however, that mutual aid is not new. Communities that have been marginalized and oppressed by the state have always relied on mutual aid for survival. It is a reality that particular groups of people cannot and have never been able to rely on the state to provide the protections and supports that are available to privileged groups. In the 18<sup>th</sup> century, formally enslaved men created the Free African Society in Philadelphia.<sup>68</sup> During the civil rights movement, the Black Panther Party formed multiple networks of mutual aid to feed, educate and house people in their communities while facilitating and engaging in direct political actions.<sup>69</sup> Famously, the Zapatistas of Chiapas Mexico have established an autonomous community of over 300,000 people and 55 municipalities, which is not recognized or supported by dominant institutions, based in daily practices of mutual aid.<sup>70</sup> Importantly and in conjunction with responses to oppression, forms of mutual aid can also be found in non-western cultures, where collective and cooperative economies are more common. Specifically, the use of Rotating Savings and Credit Associations (ROSCAs) or co-operative grassroots banking systems whereby “women collectively lend and

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<sup>67</sup> DC Mutual Aid Network, “About this group,” online: <<https://www.facebook.com/groups/492881801379594>>.

<sup>68</sup> “Emancipatory Mutual Aid: From Education to Liberation,” *Pandemic Research for the People & ROAR Magazine* (21 May 2020), online: <<https://realfoodmedia.org/emancipatory-mutual-aid-from-education-to-liberation/>>.

<sup>69</sup> John Michael Colón et al. “Community, Democracy, and Mutual Aid: Toward Dual Power and Beyond” (April 2017) at 18, online: <[https://thenextsystem.org/sites/default/files/2017-07/Symbiosis\\_AtLargeFirst-corrected-2.pdf](https://thenextsystem.org/sites/default/files/2017-07/Symbiosis_AtLargeFirst-corrected-2.pdf)>.

<sup>70</sup> John Vidal, “Mexico’s Zapatista rebels, 24 years on and defiant in mountain strongholds” *The Guardian* (17 February 2018), online: <<https://www.theguardian.com/global-development/2018/feb/17/mexico-zapatistas-rebels-24-years-mountain-strongholds>>.



save amongst their peers”<sup>71</sup> are common throughout many parts of the world including India, Africa and the Caribbean. ROSCA’s are also present in Canada as evidenced by the work of Caroline Hossein, which details the legacy of the Black Banker Ladies of Canada in their efforts to support themselves and the people in their communities.<sup>72</sup>

Modern political notions of mutual aid are drawn from the work of anarchist, scientist and aristocrat Peter Kropotkin. In his book, *Mutual Aid: A Factor of Evolution*, a direct response to the application of social Darwinism and the theory of the ‘survival of the fittest’ to humans and human nature,<sup>73</sup> Kropotkin argues that it is cooperation and not competition that leads to survival, where organizations of mutual exchange and benefit are valued over coercion and dominance.<sup>74</sup> Kropotkin was specifically critical of the use of social Darwinism to “justify acts of racism (such as slave trading), the growing power of the state (based on the notion that competitive humans need regulation via a higher authority) and the miseries of the industrial revolution,” which he viewed as being caused by capitalism and colonialism.<sup>75</sup>

Practitioners of mutual aid, therefore, believe that society must be grounded in horizontal relationships of mutual aid, or solidarity and free cooperation, and that we ultimately must “reject the institutionalization of any means of coercion, or of violence and the threat of violence,”<sup>76</sup> in order to avoid unjust forms of organization. The commitment to a horizontal structure in mutual aid networks is illustrated by the voluntary nature of organization and participation within the collective itself as well as the strict refusal to engage with dominant societal institutions that are known to cause harm, like the police.<sup>77</sup> This is not to say that mutual aid networks will not make use of available institutional supports when they are deemed tactically useful.<sup>78</sup> This includes consolidating, translating and disseminating lists of available services and supports, from places where you can access to free food and clothing to organizations that offer advocacy services related to tenancy, legal support and accessing government benefits.

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<sup>71</sup> Caroline Hossein, “Black Women as Cooperators: Rotating savings and credit associations (ROSCAs) in the Caribbean and Canada.” (2015) 48:3 *Journal of Co-operative Studies* 6 at 6.

<sup>72</sup> Caroline Hossein, “Canada’s hidden cooperative system: The legacy of the Black Banker Ladies” (Presentation, Big Thinking lecture series by Federation for the Humanities and Social Sciences, March 9, 2021).

<sup>73</sup> Carol Munn-Giddings, “Links between kropotkin’ theory of ‘mutual aid’ and the values and practices of action research” (2001) 9:1 *Educ. Action Res.* 149 at 151.

<sup>74</sup> “Emancipatory Mutual Aid,” *supra* note 67.

<sup>75</sup> Munn-Giddings, *supra* note 73 at 151.

<sup>76</sup> Jun & Lance, *supra* note 62 at 365.

<sup>77</sup> Jun & Lance, *supra* note 62 at 369.

<sup>78</sup> *Ibid.*

Similar to anarchist practice, mutual aid networks are committed to decentralization of governance, politics and the economy, favouring self-government and free agreements.<sup>79</sup> This is based on the core idea that decisions should be left up to local communities. Communities, themselves, are experts on what their needs are, what they need to meet those needs, and what “social conditions and historical associations will constrain just solutions.”<sup>80</sup> Informed by anarchist thought, mutual aid collectives are critical of hierarchical and institutionalized authority, having recognized its contribution to the forms of systemic oppression that occur and are so prevalent today. Political and economic power in the hands of a dominant few as a result of capitalism and the ownership of the means of production has deeply contributed to unjust social inequality as the powerful are able to secure and protect their interests while gaining vast amounts of wealth and power off the exploitation of resources and labour and, therefore, the decentralization of both political and economic power is required to achieve social equality.<sup>81</sup> Social equality is central to mutual aid practice, so while mutual aid networks embrace negative rights (ie. freedom from coercion), they also place great value on positive freedoms, or the social and material conditions that they recognize as needed to live a meaningful life.<sup>82</sup> While mutual aid networks do not have a centralized governing authority, they do have rules and procedures for mediation, however. When groups are formed, they create agreed upon rules based in mutual respect, equality and democracy and engagement and participation in the group is based upon an agreement to abide by those rules.

Kropotkin also makes a distinction between acts of reciprocity within the collective and acts of charity, in that charity “implies a certain superiority of the giver upon the receiver.” (Kropotkin, p 222). Mutual aid practices, therefore, are critical of charity and charitable frameworks, as evidenced by the slogan, ‘Solidarity, not Charity!’ which is so prevalent throughout mutual aid communities. Historically and today, societal responses directed at eradicating poverty have largely been charity-based, a top-down approach, which does little to address the root causes of poverty. So, while feeding someone when they are hungry is needed and has its place, this is ultimately a band-aid solution in that it is not effective at addressing the reason why that person has had to go hungry in the first place.

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<sup>79</sup> Marius de Geus, “Peter Kropotkin’s anarchist vision of organization” (2014) 14:4 *Ephemera* 859 at 869, online: <<http://www.ephemerajournal.org/contribution/peter-kropotkin%E2%80%99s-anarchist-vision-organization>>.

<sup>80</sup> Jun & Lance, *supra* note 62 at 371.

<sup>81</sup> de Geus, *supra* note 79 at 874.

<sup>82</sup> Jun & Lance, *supra* note 62 at 373.

## Conclusions – Where to Now?

In light of criticisms that have been presented related to the current human rights framework and the systems of mutual aid that is being proposed, whereby horizontal systems of community care replace dominant hierarchical power structures ingrained in our society, including in our political and economic systems and consequently the legal systems that govern them, we must consider how human rights frameworks, and human rights themselves, can fit within a structure that is based in collective well-being, where people hold a responsibility to care for each other. Practically speaking, the transformation proposed requires a decentralization of power and ultimately decision-making, which is best suited for local contexts, however as evidenced by the experience of the Zapatistas, horizontal autonomous decision-making and governance can exist at the local and municipal levels illustrating the adaptability of the model to larger contexts. It could also be argued that high-income countries like Canada with progressive taxation and social welfare systems already practice what some could describe as ‘mutual aid,’ however, it is important to consider the reality that creates the need for mutual aid in the first place, which is that our societal systems maintain and perpetuate oppression and violence because the foundations these systems are built upon are based in and uphold white supremacy, colonialism, imperialism, patriarchy, and capitalism. Despite the progressive taxation and social welfare systems in Canada, structural oppression and violence is pervasive and made evidently clear when presented with statistics related to poverty or by simply having a conversation with someone who has lived experience of poverty in Canada.

It is important to note that, despite the individualism that has taken root in society through its institutions, including human rights themselves, it is not to say that they of no relevance or are not still incredibly important. Conceptions of human rights are not inherently incompatible with anarchist thought or practice<sup>83</sup> and in mutual aid work, political activism directed towards the government does use human rights language in attempts to hold the state accountable. For those of us who analyze and advocate for human rights, however, we must contend with the reality that the current human rights framework has failed in ensuring the most basic rights needed to survive and live and dignified life and we must ask ourselves how our vision of human rights has

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<sup>83</sup> Mark Bray, “Beyond and Against the State: Anarchist Contributions to Human Rights History and Theory” (2019) 10:3 *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 323.

contributed to this failure. In light of the oppressive and harmful nature of some of our most prevalent institutions, like modern capitalism and the proliferation of neoliberal thought and policy, we must determine how human rights can more effectively dismantle the foundations of oppressive systems and in the context of this discussion, determine how human rights themselves could fit within more egalitarian systems based in mutual aid and collective responsibilities.

Today, the toxicity of individualism and how it engages with current human rights discourse is at the forefront, as society reckons with a refusal to accept a communal duty to rectify systemic issues like racism and oppression. The recent pushback to accept a communal duty to protect public health by wearing a mask, which has been framed as an infringement on individual rights, is also a particularly potent example of how human rights have been manipulated and coopted by individualism and while this type of discourse is most popular in places such as the U.S., this rhetoric is also present in Canada as protests against mandatory masks and government restriction related to COVID protections have occurred throughout the country, although to a lesser extent than in the US. Whether human rights themselves are going to be useful in getting us out from under the grips of systemic oppression or if framing this work in other terms is needed (ie. as a social justice issue or as obligations outside of human rights), it is undeniable that the institutions that govern our society today are the institutions that have created the circumstances we are in now, where millions of people are forced to focus on where they will get their next meal or whether they will have a roof over their head, while millions of others believe that those experiencing poverty are in circumstances of their own making. As stated by the UNDP, genuine improvement will not come from “looking back and simply trying to reinstate the policies and institutions that held inequalities in check...It was under those very conditions that power imbalances deepened, in many cases accentuating the accumulation of advantage over the lifecycle.”<sup>84</sup> If we believe a more just society is necessary and possible, we must therefore begin to build horizontal structures of community care to create something more equalitarian, while also ensuring that no one is left behind.

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<sup>84</sup> UNDP, *supra* note 19 at 3.

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