



# Juridical Empowerment

## Empowering the Impoverished as Rights-Asserters

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### Abstract

The idea of empowerment has gained a significant role in the discourse of poverty. I outline a restricted conception of empowerment inspired by Kant's idea of *rightful honour*. According to this conception, empowerment consists in enabling individuals to assert their own human rights (*juridical empowerment*). I apply this conception to impoverished persons and argue that it is crucial to their self-respect, their so-called 'power-[from-]within,' and their political agency, and has a teleological primacy regarding our efforts to reduce poverty. I also defend the idea that there is a moral right to this form of empowerment and a corresponding duty to empower the impoverished as rights-asserters. Juridical empowerment will be compatible with a pluralism of substantive accounts of the moral wrongs of poverty and with broader conceptions of empowerment.

**Keywords** Empowerment · Human rights · Poverty · Self-respect · Political agency · Rightful honour

Extreme poverty involves, alongside the deprivation of material needs, extreme inequality in social, political, and economic relations at both local and global levels. This significantly affects the agency of those who live in extreme poverty (henceforth just 'poverty').<sup>1</sup> A crucial way to oppose this is to empower impoverished people to be agents in certain ways in order to change those relations. I outline a qualified conception of empowerment which concerns the ability of rights-holders to assert their own human rights (*juridical empowerment*) and leaves open broader conceptions of empowerment that cover a wide variety of

<sup>1</sup> I refer in this paper only to extreme poverty, which I roughly conceive of as living with so few resources that one is unable to meet some of the basic needs upon which one's subsistence depends, and is prevented from taking part in the standard, encouraged, or approved activities of one's society. I am, from the outset, focusing on poverty as *relational*, that is to say, as caused by historically developed social, political, and economic relations between human beings. Finally, I do not refer to those cases in which the impoverished persons clearly and deliberately brought the poverty on themselves.

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aspects of people's lives. This conception is inspired by Kant's idea of '[r]ightful honour': 'asserting one's worth as a human being in relation to others' (*The Metaphysics of Morals* (*MM*) 6:236).

To clarify some aspects and potentials of juridical empowerment in the discourse of poverty, I contrast it with a hypothetical position which I call the *beneficiary-oriented view* of poverty. On this view the impoverished are mere passive receivers who live at the grace of others. By focusing on empowerment in terms of the ability to assert one's own human rights, I hope to diminish the troublesome vagueness of the concept of empowerment (e.g., Cornwall and Brock 2005; Drydyk 2008). Enabling the impoverished to assert their human rights contributes, I will argue, to their self-respect and political agency in a significant way—vital goods which the beneficiary-oriented view downplays. I will also argue that juridical empowerment should be granted a teleological primacy in fighting poverty.

The paper is in two parts. First, I develop the conception of juridical empowerment. Second, I anticipate some possible objections to further defend and clarify my conception.

## 1 A Restricted Conception of Empowerment

In §1.1, I give a short history of the idea of empowerment and how it gained relevance in the discourse of poverty, as well as a brief account of its major features and the controversies surrounding it. In §1.2 I introduce how I conceive of juridical empowerment. Analysing the characteristic features of juridical empowerment, I defend the idea that there is a moral claim right of the impoverished to be empowered in this respect. In §1.3 I present some moral reasons for juridical empowerment. In the course of this, I consider the hypothetical beneficiary-oriented view of poverty in order to cast some of the advantages of juridical empowerment into relief. Finally, in §1.4, I discuss the nature of the corresponding duty to empower the impoverished and some questions about the addressees of this duty.

### 1.1

'Empowerment' has been appropriated as an effective tool by many different, even conflicting, views and movements. It has been appealed to in many different areas such as civil rights movements, identity politics, international development programs, healthcare, and social work. Although popularized in the 1980s, the idea of empowerment as a tool or even a goal of social change has its origins in the civil rights movements of the 1960s (for a history see Simon 1994). Yet it is supported by diverse traditions and inspirations such as feminism and Marxist critical theories. Originally, empowerment has been understood as an inherently political, multifarious, bottom-up process of enabling those who are discriminated against, marginalized, oppressed, and the like, to gain or build up certain abilities (e.g., consciousness, skills, and social and political participation), individually and/or collectively, within a context of inequitable power relationships.

In the 1990s, the idea of empowerment eventually found its way into the discourse of fighting poverty (see, e.g., Friedman 1992). Later, a number of international summits, including the Millennium Summit in New York (2000), the Sustainable Development Summit in Johannesburg (2002), and the Monterrey Conference on Financing for Development

(2002) have used the idea of empowerment—especially of women—as a primary approach in alleviating or eradicating poverty.

In a seminal World Bank publication, *World Development Report 2000/2001: Attacking Poverty* (2001), empowerment is named as a key factor in the fight against poverty.<sup>2</sup> One of the main reasons given in the *Report* for incorporating the idea of empowerment is that it contributes to the accountability and responsiveness of the institutions which play decisive roles in creating and sustaining poverty (ibid., Part III). In 2002, the World Bank released another publication entitled *Empowerment and Poverty Reduction: A Sourcebook* aimed both to refine the notion of empowerment and make it implementable (Narayan 2002; cf. Alsop et al. 2006). It characterizes empowerment as ‘the expansion of assets and capabilities of poor people to participate in, negotiate with, influence, control, and hold accountable institutions that affect their lives’ (Narayan 2002, xviii; for more on this see Drydyk 2008).

The currency of ‘empowerment’ has not been without undesirable consequences. While I cannot go into the details, I would like to briefly mention some of the most frequent criticisms. However, I do not take a position concerning the soundness of these criticisms against general conceptions of empowerment. My aim is rather to highlight the desideratum that a conception of empowerment needs to fulfil certain features.

It has been widely argued that the concept of empowerment, as used in the reports and publications of the World Bank, lacks clarity (Cornwall and Brock 2005, 16; Drydyk 2008, 233 ff.). To some, from historians to feminist activists, the notion has been alienated from its original meaning and purpose. While empowerment was originally meant as a tool or an end for radical social changes to the benefit of those discriminated against, marginalized, or oppressed, it has become a buzzword or rhetorical device that even the establishment uses to uphold the status quo and legitimize existing top-down policies to increase economic efficiency and productivity (Parpart 2002; Gillon 2016). Most notably, some feminists have objected that the idea has been alienated from its original emphasis on the notion of power and collective shared experiences of injustices. According to this line of critique of institutionalized programs against poverty, the idea has become de-politicized, instrumentalized, and often reduced in practice to its economic dimension rather than contributing to an increase of power of the impoverished (Wong 2003; Cornwall and Brock 2005).

Criticisms of the idea of empowerment, however, have not diminished its political and social potency, as has been demonstrated by the recent rise of the concept within the Black Lives Matter and LGBTQIA+ global movements. Contra a radical scepticism that would make a case for abandoning the notion, strong normative and motivating reasons speak for continuing to use the idea, whilst further resisting the way in which it could be instrumentalized (see Batliwala 2007).

## 1.2

Suppose there were a conception of empowerment which resists these sorts of distorted usages. It would then be a conception which, for instance, offers more clarity about the object, scope, and purpose of empowering; it would be difficult to alienate it from its being a forceful tool or a valuable end for relational changes in favour of the impoverished; it

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<sup>2</sup> In the *Report*, empowerment means ‘enhancing the capacity of poor people to influence the state institutions that affect their lives, by strengthening their participation in political processes and local decision-making’ (2001, 39).

would be hard to instrumentalize it to the extent that it becomes disempowering for the impoverished; it could not easily be de-politicized; and it would not be reducible to just the economic dimension or to certain material aspects of poverty.

To approach such an ideal conception, I suggest drawing on some resources in Kant's moral theory in its broad sense (as expounded in *MM*), i.e., which encompasses both his theory of right and his theory of ethics (*MM* 6:218 ff., 239). In particular, I will make use of the idea of rightful honour (*honestas iuridica*) that Kant introduces in his 'Doctrine of Right' (the first part of *MM*). Rightful honour primarily pertains to certain obligations which one has regarding oneself. It consists in 'asserting one's value as the value of a human being in relation to others' (*MM* 6:236; my translation) and is, as Kant goes on, expressed in the following self-regarding duty: 'Do not make yourself a mere means for others but be at the same time an end for them' (*ibid.*).<sup>3</sup>

This idea, appropriately reconstructed, seems to me a promising lead in working out a conception of empowerment with the potential of meeting the above-mentioned ideal features.

What makes rightful honour particularly fitting for this purpose is, on the one hand, its emphasis on the active, self-demanding perspective of the agents, who the concept primarily applies to. On the other hand, rightful honour provides the possibility of conjoining this perspective with the language of rights. As I shall show, these aspects contribute in several respects to a restricted ideal conception of empowerment. As Kant might have put it: If 'asserting one's value as the value of a human being' follows in terms of certain claim rights which one has as human being, then being a self-determined rights-asserter would be a significant expression of not making oneself a mere means for others but being at the same time an end for them.

However, I will not explicate Kant's idea of rightful honour and its relevance for the problem of poverty.<sup>4</sup> I leave it, for instance, undecided how according to Kant himself rightful honour could generate corresponding duties in others to support my fulfilling this self-regarding duty (in §2.4, though, I reply to a similar question regarding the conception of empowerment I am going to develop here).<sup>5</sup> I instead suggest a reading *inspired* by Kant, which involves the claim that one should assert one's moral rights in relation to others without regarding this as something that one ought to do because of the other's obligations. Those who, due to asymmetrical relations, cannot exercise their ability to assert their moral rights are not only subject to violations and harmful inequalities with respect to those rights, but also with regard to this ability itself. I assume that those who live in poverty are such a case. As this reading will pertain from the outset to the claim rights, it correlates with a set of demands it makes on others towards the rights-asserters. We could add, and I cannot see any

<sup>3</sup> This is a version of the Humanity Formula of the Categorical Imperative ('So act that you use humanity, in your own person as well as in the person of any other, always at the same time as an end, never merely as a means' ([1785] 4:429; emphasis removed) from the first-person singular viewpoint towards oneself.

<sup>4</sup> Among Kant scholars, Ripstein (2009, ch. 9, II–III) and Weinrib (2003, III) emphasize the significance of rightful honour for the problem of poverty.

<sup>5</sup> As rightful honour appears in the 'Doctrine of Right,' it seems to imply that one should assert one's own juridical rights, i.e., those moral rights the violation of which authorizes the use of coercion against the violators. Moreover, in Kant's theory of right a crucial role is assigned to rightful honour: Making the assertion of one's juridical rights is a requirement of being a juridical person (see *MM* 6:237; cf. Höffe 2002, 84–87). As Byrd and Hruschka put it: 'In my awareness of the duty expressed in [rightful honour], I become a juridical subject, meaning a person with rights [...] Seeing myself as a juridical subject is the same as making an effective claim against all others to respect my rights' (2010, 65).

reason why we should not, that the asserted rights are *human rights*—however their content might be justified differently.<sup>6</sup>

I propose that we conceive of empowerment in terms of the ability to assert one's own human rights, whilst the empowered rights-asserters are the impoverished. Inspired by Kant as I am, I consider this assertion, on the one hand, to be a demand regarding oneself (from the first-person singular viewpoint towards oneself: 'assert your own human rights'), and on the other, as it pertains both to empowerment and human rights, to be implying certain claims towards others. I will say more about these aspects in Section 1.3 and Section 2.

I do not strive for a comprehensive conception of empowerment here, but I am not sceptical that such a conception could obtain. Such conceptions cover a vast array of abilities, choices, and influences of persons concerning broader aspects of their lives. In Deepa Narayan's formulation, for instance, empowerment is to be viewed 'as increasing poor people's freedom of choice and action to shape their own lives' (2005, 4).<sup>7</sup> Ruth Alsop et al. regard the result of empowerment 'as a group's or individual's capacity to make effective choices, that is, to make choices and then to transform those choices into desired actions and outcomes' (2006, 10).<sup>8</sup> Serene Khader, to take another example, defines empowerment as the 'process of overcoming one or many IAPs [inappropriately adaptive preferences] through processes that enhance some element of a person's concept of self-entitlement and increase her capacity to pursue her own flourishing' (2011, 176).<sup>9</sup> Unlike these conceptions, I propose a restricted conception of empowerment which is linked only to the ability to assert one's own human rights. However, I do not think of this conception as in conflict with or even critical of comprehensive conceptions of empowerment, but rather as being compatible with them. I call this form of empowerment *juridical empowerment*, which term refers to the following two layers:

$L_2$  The impoverished have a moral right to be enabled to assert their own human rights.

$L_1$  The impoverished assert their own human rights.

$L_2$  represents the content of juridical empowerment as applied to the poverty. The impoverished are empowered by making it possible for them to exercise their ability to assert their human rights. Empowering someone, however, is pointless if that person does not have a potential claim to empowerment. This potential claim need not of course be appealed to before the process of empowerment. It could, and probably does often, happen during or even after this process. After all, one essential aspect of the meaning of empowerment is that its addressees are still unable to do certain things. I assign this potential claim a moral character since I am considering poverty from the outset as relational—that is to say, the fact that impoverished people are exposed to violations of their human rights is taken here to be due to the historically developed social, political, and economic relations which are caused or upheld by others. As Hohfeldian claim rights encompass moral rights as well as

<sup>6</sup> The edited volume by Pogge (2007) marks a significant contribution to the relation between poverty and violation of human rights.

<sup>7</sup> Cf. Narayan (2002, 2); for another comprehensive account of empowerment see Drydyk (2008, 235–36), who aims to make explicit sense of Narayan's definition; see also Deveaux (2015, 146).

<sup>8</sup> According to Bolaffi et al.: 'At a personal level, empowerment refers to the process whereby people are enabled to gain the resources that enable them to live in optimal conditions, in ways that they would choose' (2003, 85). Some see empowerment generally as enabling people to make their own independent choices (Cornwall 2007, 165), or as about gaining mastery over one's own life (Rappaport 1984).

<sup>9</sup> IAPs are preferences that are 'harmful to their bearers, and adapted to bad social conditions' (Khader 2011, 52 f.).

legal rights, and are open to both first- and second-order claims (Hohfeld 1913), I suggest, therefore, conceiving of the claim to be empowered in this respect as a Hohfeldian claim right against others.  $L_2$  thus implies a second-order right: the moral right to be enabled to assert one's rights. This in turn means that others have a duty to empower the impoverished in terms of making the exercise of their ability to assert their human rights possible. I conceive of this as a formal duty which should not be reduced to a single act or even a set of determined acts of the duty-bearers. It rather covers a multifaceted process, whether top-down (by states or state-affiliated institutions) or bottom-up (by individuals, grassroot organizations, and so on), and at different political and juridical levels. (I return to the topics of the bearer and the content of this duty in §1.4; for the moment, though, I deliberately keep them indeterminate.)

$L_1$  represents the result of juridical empowerment. It is, with regard to the corresponding demands that juridical empowerment implies, two-tiered: The impoverished make a demand on themselves to assert their rights, and though this might surely succeed in exceptional cases without any recognizable form of external empowerment, the impoverished, by the very fact of their poverty, often lack the prerequisites of this ability. But  $L_1$  also concerns the human rights which the empowered rights-holders assert. It therefore refers to those duties that correspond to these human rights. There are various accounts with fairly different grounds both for the nature and the scope of human rights (to name a few: Nussbaum 2000; Griffin 2008; Forst 2010; Buchanan 2013; Tasioulas 2015).  $L_1$  however remains neutral towards most of the different substantive accounts of human rights (more on this in §2.2). Nevertheless, we could and probably should take the prominent international human rights documents such as the Universal Declaration of Human Rights (UDHR 1948), the International Covenant on Civil and Political Rights (1966/76), and the International Covenant on Economic, Social and Cultural Rights (1966/76) as initial reference points in order to grasp more concretely the content of the rights the empowered would assert.

I assume that assertions of human rights can find expression in many forms; examples reach from individual and collective speech acts, symbolic acts, and various forms of demonstration, to participatory, mobilizing, or organizational activities. Since I also assume that one of the main purposes of juridical empowerment is that rights-asserters exercise their authority to make enforceable claims towards others, one optimal expression of assertion is through lawsuits at any legal level.

Taken together, juridical empowerment urges that the impoverished are to be empowered with the ability to be rights-asserters, which expresses itself in various forms of asserting a given set of their human rights. On this account, there are both duties corresponding to these basic rights and the self-regarding demand to assert them ( $L_1$ ), as well as a duty to empower the impoverished to do so ( $L_2$ ). I will give more detail about the relationship of these demands, namely the duty to empower, duties corresponding directly to the human rights of the impoverished, and a self-regarding demand to assert one's own human rights, in §§2.4–5. For the moment, however, it is important to emphasize that juridical empowerment remains neutral about the normative foundation(s) of these demands, and how they would relate to each other were they based on different grounds.

### 1.3

Why should one think of fighting poverty in terms of juridical empowerment? A core idea of this account is to counteract human rights violations of the impoverished, and to do so from their inside perspective as rights-holders. Making the institutions which are involved in creating and sustaining poverty more responsive surely motivates working within the framework of empowerment—as this was a major reason for spreading the idea of empowerment in the discourse of poverty (e.g., the World Development Report 2001). But juridical empowerment aims to achieve this while also, and more importantly, directly beginning on the other side of the unjust relations of poverty, namely with those rights-holders who are *affected* by poverty. The intuition behind the conception of juridical empowerment is that unless the impoverished themselves are able to claim their human rights effectively, the fight against poverty is basically flawed: the impoverished would remain vulnerable to the generation, reinforcement, and perpetuation of those relations responsible for their poverty. The reasons motivating juridical empowerment are moral and could be summarized by the value of the autonomous status of the impoverished in matters of their basic rights. I deal with this here in some detail.

Any form of empowerment must get at least one thing right: Those who are to be empowered in a certain respect can become self-determining agents—take their destiny into their own hands—in that respect. This is of course not to say that they can do so without any further aid or protection. All empowerment-based efforts against poverty could, in this regard, be framed as opposed to an attitude towards the impoverished which I call the *beneficiary-oriented view*. On this view, the ‘poor’ would merely be passive recipients waiting for the relief given at the discretion of others. I do not, however, claim that this view describes an actual position. Yet it is detectable in some normative accounts of poverty alleviation (Peter Singer, for example, has faced this charge; see Kuper 2002) or implicit in policy decisions aimed at tackling poverty (indeed, this seems to be one the main motives for incorporating the idea of empowerment in World Development Report 2000/2001: see Part V, Ch.II and Part III; see also Narayan et al. 2000a/b).<sup>10</sup> I rather see this view as a contrastive abstraction with a limited heuristic role to highlight certain aspects of juridical empowerment. My aim in the following, therefore, is not so much to criticize the hypothetical beneficiary-oriented view as to illustrate some further features and potentialities of juridical empowerment. Below I argue that viewing the impoverished as beneficiaries is inevitable but that this does not mean adopting the beneficiary-oriented view, and that if viewing the impoverished as beneficiaries incorporates juridical empowerment with certain primacy, it plays a vital role in fighting poverty (§2.1).

Half a century ago, Denis Goulet, a pioneer development ethicist, proposed that impoverished people ‘are entitled to become agents, not mere beneficiaries, of their own

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<sup>10</sup> A variant of the beneficiary-oriented view would be what Tommie Shelby calls the ‘medical model’ of social reform. It has the primary aim of increasing the material welfare of the impoverished by making interventions into their lives. Those working within this model—analogueous to physicians who ‘take basic human anatomy as given when treating patients’—do not aim at changing the ‘the background structure of society’ responsible for poverty, but ‘focus only on alleviating the burdens of the disadvantaged’ unilaterally. According to Shelby, one of the important things this model marginalizes is ‘the political agency of those it aims to help’; it regards the impoverished as ‘passive victims in need of assistance rather than as potential allies in what should be a collective effort to secure justice for all.’ (Shelby 2016, 2 ff.). My thanks to an anonymous reviewer for drawing my attention to this.

development' (1971, 148; see also 253). Similarly, Amartya Sen has opposed looking at the impoverished as 'passive recipients of dispensed benefits' to seeing them 'as active agents of change' (Sen 1999, xiii, 189). As Monique Deveaux rightly observes regarding the impoverished: 'It is vital [...] that the "subject" of [...] rights be treated not as needy beneficiaries, but rather as persons with valid claims to social protection as well as to full economic and political enfranchisement' (2015, 150). What is still more important from the perspective of this paper, inspired as it is by the idea of rightful honour, is the fact that as much evidence shows, the beneficiary-oriented view is not only present in the attitude of the affluent towards the impoverished, but was and still mostly is the prevailing way the impoverished regard *themselves*: as passive receivers at the grace of others.<sup>11</sup>

Juridical empowerment opposes the beneficiary-oriented view. It urges that people living in poverty are active sources of valid claims, namely their human rights. These rights are from the outset reciprocal. They not only generate obligations for others, but also could and should be claimed by their holders. Juridical empowerment thus opposes a characteristic feature of the beneficiary-oriented view, namely the solely unilateral direction of protection and aid from benevolent donors to needy receivers. Moreover, it is not about advocating for the rights of the impoverished. It does not say that empowering persons or institutions should assert the rights of the impoverished. Anyone, of course, can claim *that* certain rights are basic rights of the impoverished—and indeed should, if the impoverished themselves do not or cannot—but only the impoverished or their chosen representatives can genuinely and optimally claim the rights that are, after all, *theirs* (see Feinberg 1970, 251; this again could be considered one of the major points of Kant's idea of rightful honour: cf. n. 5). Juridical empowerment rather aims to achieve this: empowering the impoverished by making *them* able to assert their own rights. It marks a necessary minimum degree of empowerment. The purpose of the external empowering process ( $L_2$ ) is only to enable the impoverished themselves to assert their rights ( $L_1$ ).

The beneficiary-oriented view also fails to establish or restore the self-respect of the impoverished, whereas juridical empowerment contributes to it in a significant way. Once again, we could draw on resources of Kant's moral theory here to bolster this feature. In his 'Doctrine of Virtue' (the second part of *MM*) he makes explicit the intimate connection between rightful honour and self-respect through the idea of avoidance of servility as a self-regarding duty (*MM* 6:§§11–12). The duty to avoid servility implies that one 'should not disavow the moral self-esteem.' Such a duty, Kant continues, 'with reference to the dignity of humanity within us, and so to ourselves, can be recognized' in the following: 'Do not let others tread with impunity on your rights' (*ibid.*, 435 f.). Without purporting to interpret Kant, it could be stated that knowing that one has rights, being entitled to demand their fulfilment, and being encouraged and enabled to do so ( $L_2$ ) is a crucial part of a process of establishing or restoring one's self-respect (see Hill 1973). In this respect, *asserting* one's own human rights *represents* the self-respect ( $L_1$ ).

The self-respect of the impoverished relates to the perspective of the so-called 'power-[from-]within' in feminist empowerment accounts (e.g., Shields 1995). This addresses the psychological dimension of empowerment actualizing the 'personal power' to overcome internalized obstacles (e.g., internalized oppression). One major aim of this aspect of empowerment is to enable the empowered to value themselves and gain self-respect (Batliwala 1993; Rowlands 1997; Allen 1999). To some feminists this is even deemed the

<sup>11</sup> For an excellent collection of cross-cultural and historical documents attesting this, see Cohen (2006).



most crucial aspect of empowerment (Townsend et al. 1999, 24). Juridical empowerment contributes to the power-from-within of the impoverished, as asserting one's own human rights is a primary manifestation of this power—howsoever its external force may depend on others and on institutions.

Another important aspect which could not be adequately accommodated by the beneficiary-oriented view regards the relationship of political agency of the impoverished and poverty. Bohman (2015) views poverty as a major cause making citizens 'silent', Dryzek (2015) argues that the impoverished should be both 'formative and primary agents of justice'.<sup>12</sup> And Deveaux (2015, 2018) advocates for the recognition of the impoverished as global agents of justice. Juridical empowerment seems to be a necessary, primary step if we are to counteract the voicelessness of the impoverished in political matters and allow them to realize these forms of agency. This is because asserting one's human rights is a basic element in being a political agent. Moreover, it seems to be a conceptual matter that, for instance, in order to be a co-author in the process of determining the norms of justice, a person has to be, first, an asserter of legitimate claims. The importance of juridical empowerment for political agency is also due to very characteristics of human rights: The protection and promotion of these rights inherently regard political institutions, most prominently nation-states. In addition, human rights have, in the international arena—as has been especially highlighted by proponents of the so-called political or practical view (e.g., Beitz 2009, ch. 5)—the 'functional role' of justifying various forms of global concern. In short, although juridical empowerment is not sufficient to fully actualize the political agency of the impoverished, it contributes vitally to this kind of agency.

I would like to add some remarks to clarify how I use the concept of 'beneficiary' regarding the impoverished: I do not argue that taking the impoverished to be beneficiaries would be the wrong way to think about poverty. After all, the impoverished *need* some basic goods and there is no way nor reason to deny this. Nor do the above-mentioned reasons in favour of juridical empowerment imply that conceiving the impoverished as beneficiaries would mean treating them as passive victims of social injustice rather than active participants in society. The point of the hypothetical beneficiary-oriented view is rather that it would see the impoverished as nothing *other than* beneficiaries, as *mere* recipients of benefits. Finally, I do not propose that the harms of poverty should be understood in terms of a failure of juridical empowerment. Yet being unable to assert one's own human rights would be one of the important harms suffered by those who are affected by poverty.

#### 1.4

I stated in §1.2 that the moral right to be empowered generates the formal duty of others to empower the impoverished. But what exactly is the content of this duty, and who are its bearers? I also stressed that poverty in this paper is conceived as relational: it is due to historically developed social, political, and economic asymmetrical normative relations between human beings that generate, reinforce, and perpetuate severe deprivations and

<sup>12</sup> 'Formative agents of justice' means 'those who determine in the first instance what justice should *mean* and so what exactly needs institutionalizing by her primary agents'; the latter, following O'Neill (2001, 181), regards those 'with capacities to determine how principles of justice are to be institutionalized within a certain domain.' (Dryzek 2015, 363).

inequalities. These relations, however, imply a variety of duties. So, what are these duties and how do they relate to the formal duty to empower?

I conceive of the formal duty to empower as an umbrella term for a pluralism of concrete duties. It organizes these duties according to their correlation with the second-order claim right to be empowered. Questions both about the content and bearers of the formal duty can therefore be passed on to concrete duties to empower the impoverished. While answering these questions adequately requires more detail than can be given here, I sketch in the following a concrete duty to empower, which arguably carries a major role in the multifarious process of juridical empowerment. I then add some remarks about the bearers of duties to empower and how they relate to each other, as well as about whom human rights should be asserted against.

One might think that in a way, the very efforts of the impoverished to survive are assertions of their rights. But this would misconstrue the point, allowing even instinctive reactions to alleviate the deprivation of basic needs to count as right-assertions. One of the most important requirements for an action to be an assertion of one's own rights is rather that its agent *knows about and values* her rights. People affected by poverty often do not know what their rights are or value them. Perhaps the most important initial duty to empower the impoverished is—to use a concept coined by Paulo Freire—to become engaged in a process of 'conscientization' (*conscientização*) regarding impoverished people's basic rights and their respective values. According to Freire's own account, conscientization means to raise the critical consciousness of, say, the impoverished about the reasons and causes of their poverty and their being kept 'submerged' in a 'culture of silence' (Freire 1970, 1972). Asserting one's own human rights is an important step to release oneself from the plight of this culture. It is an initial, crucial call by which to address the historical, socio-economic, and political conditions of their violation—relations responsible for the exclusion, invisibility, subordination, and the like of the impoverished which, if not challenged by *them*, will keep them voiceless. The duty to empower in terms of this reading of conscientization connects of course with a range of possibilities, from various ways of awakening (education) and encouraging the impoverished, to standing in solidarity, cooperating, and co-organizing with them (see Kabeer and Sulaiman 2015). In fact, part of these concrete duties has already been materialized, both at the global level (e.g., La Via Campesina) and by local grassroots organizations (e.g., Nijera Kori in Bangladesh).<sup>13</sup>

The formal duty to empower not only remains open towards a variety of concrete duties, but also regarding who takes on the role of bearer of these duties: whether it be individuals, non-state organizations, or states. However, it is important to stress that a substantial aspect of the duties to empower is ensuring that there is an institutional framework, whether locally or on a regional or global scale, that is adequately responsive to the assertions of human rights. I do not think that this is achievable by limited individual actions, unilateral collective actions such as those organized only by non-state movements, or 'top-down' actions by state apparatuses. Both bottom-up and top-down measures, in tandem, seem to be required. From the perspective of non-state movements, for example, one of the main goals of fulfilling the duties to empower would be that rights-asserters have the normative authority to make enforceable demands on others. Yet this could and probably should also be implemented from the top, for instance by structural and legal reforms. Duties to empower are, in

<sup>13</sup> Kabeer and Sulaiman similarly observe that Nijera Kori's approach 'can be seen as building capabilities in order to claim basic human rights' (2015, 48).

short, to be fulfilled in both directions complementarily, with neither having to be a remedy for the failings of the other.

Another question is this: against whom should the empowered assert their human rights? Are the impoverished to assert them against their local institutions, against other governments, or against the global community? The answer to this question is, on one hand, dependent upon where stronger reasons for being responsible for conditions of poverty reside. On the other hand, prudential reasons or more expedient strategies might play a decisive role here; for instance, when it comes to the availability of institutions that are responsive to the rights-asserters. As mentioned above, Freire's concept of conscientization entails critical consciousness of the reasons and causes of poverty. Part of the empowering duty to conscientization thus regards elucidating these networks behind poverty. It is often of course challenging to directly pinpoint those reasons and causes that are responsible for poverty. In cases such as the lack of education or infrastructure; inadequate healthcare; or racial, gender, or other bias-based inequalities within a society, the direct causes seem to be substantially domestic (e.g., corruption, bad governance, ideology, or historical conflict-laden backgrounds). It seems to be easier to share the responsibilities here than in cases where there are global relations behind the poverty: for instance, economic growth over the last two centuries, overexploitation of resources, externalities such as climate change, and regional conflicts backed by opposed international actors. Determining the direct addressees of assertions of human rights thus depends upon a complex process of knowledge and deliberation which should be incorporated into concrete duties to empower.

## 2 Objections against Juridical Empowerment

In this section, I defend and develop the conception of juridical empowerment further by anticipating some possible objections and questions.

1. The first objection, which could be unfolded in different ways, might begin with urging that empowering the impoverished to assert their rights misses the point: 'they need food, not rights!' If this objection holds that all that matters in fighting poverty is external aid to relieve the impoverished from their material deprivations, then it would align perfectly with the beneficiary-oriented view of poverty (see also n. 10). It would ignore the fact that not only do harms of poverty go beyond certain material deprivations, but that they could be of *greater* concern for the impoverished (see Narayan et al. 2000a/b). The objection would especially underestimate the values of agency and self-respect the impoverished would gain through being active rights-holders. As Deveaux states, it is 'an over-simple view' to see poverty 'as strictly a lack of means of subsistence,' while ignoring the 'social and economic self-determination and empowerment of the poor' (2015, 149).

One might think, as a possible ramification of the previous objection, that if the impoverished are granted certain rights such as the right to food or other subsistence goods, this should sufficiently do what we are expecting from rights-talk *vis-à-vis* alleviating poverty. But as I mentioned in §1.3, recognizing the basic rights of the impoverished would, apart from cases like infants or children and so on, only make sense if the impoverished or their chosen representative can *claim* their rights. Granting rights-holders a right to, say, food without them being able to claim it, is, in the end, hot air. The same goes for assuming that some agents are self-determining without them being able to assert their valid claims,

such as their basic rights. One of the benefits of the concept of juridical empowerment is precisely that it works against an empty talk of rights. Juridical empowerment might appear to contribute to the proliferation of rights when it introduces the second-order moral right to be enabled to assert one's human rights ( $L_2$ ), but as argued in §1.2, empowerment is conceptually bound up with claims to be enabled, be it before, during or even after the process of empowerment. So, if a process of empowerment involves enabling people to assert their basic rights in order to work against their violation, it seems natural to think of the claim to be empowered in that respect as a higher-order moral right.

It should be emphasized that juridical empowerment counteracts poverty only alongside other measures and probably alongside other sorts of empowerment. Moreover, it need not have *chronological* priority over other measures of poverty reduction, such as providing the impoverished with satisfaction of their basic material needs. What makes juridical empowerment among other measures against poverty substantial, however, is that it marks one of the *goals* of these measures: it has a *teleological primacy*. If in a society of plenty, there are people who are deprived of subsistence goods, it is reasonable to think and act in ways that reflect that they are chronologically first and foremost in need of these goods, i.e., *beneficiaries*, and not necessarily in need of juridical empowerment. But if any person or social welfare program treats the impoverished as *mere* beneficiaries (as adherents to beneficiary-oriented views do), without incorporating juridical empowerment in its goals, then it is not clear how such forms of poverty reduction could escape a charge of paternalism.

It could be objected here that there might be a model of empowerment of the impoverished that aims to enable them to *pursue their own ends*, rather than to claim their own rights: this would not be juridical empowerment, but it does not thereby seem to be paternalistic. However, these ends could be, for instance, subject to what Khader calls 'inappropriately adaptive preferences' (see n. 9)—as is often the case for those affected by poverty. The empowering process should not then set as its sole goal enabling the impoverished to pursue their own ends whatever they happen to be. It should rather appeal to certain qualifying standards, which of course would have to be open to a pluralism of conceptions of well-being in order for them to not be paternalistic. But juridical empowerment does exactly this in terms of human rights, which are necessary for and supportive of a variety of ends. What is more, it targets only the *ability* to assert them. It is, in the end, the empowered persons who make the decision *whether* to assert their basic rights.

2. Another possible line of objection would refer to disagreements upon human rights. There are not only views that are sceptical regarding the very existence of human rights: there are also different accounts of their justificatory grounds and scope. To some, socio-economic rights are not part of a list of human rights in the proper sense (Cranston 1983); among libertarians, just a few rights, such as those to private and productive property or to key economic liberties, count as human rights. So, the objection is that empowering the impoverished to assert their human rights does not contribute anything significant to their predicament if the impoverished themselves are, for example for ideological reasons, sceptical about the validity of human rights, or if the addressees of their claims advocate a minimal list of human rights.

According to juridical empowerment, however, a crucial part of the duties to empower, e.g., in terms of conscientization, should be about the value of human rights for a pluralism of conceptions of well-being according to different world views. In addition, I see it as an integral part of juridical empowerment to work against ideological, sceptical views about

the very validity of human rights by elucidating the ways these views generate, reinforce, and perpetuate asymmetrical normative relations.

Juridical empowerment, conceptually, need of course not adhere to a list of human rights. Accounts of human rights with different lists, from the more generous to the more qualified, could mark stages on the spectrum of juridical empowerment. The broader the list, the thicker would be the respective concepts of duties to empowerment. However, as mentioned above (§1.2), it is important to have certain reference points by asserting human rights. As John Tasioulas puts it, the language of human rights has gained the status of the world's moral *lingua franca* (2007, 75), and this language finds its expression in prominent human rights documents, most influentially in the UDHR. If some minimalists about human rights do not recognize that poverty represents human rights violations, juridical empowerment could make an important contribution to changing their accounts. It is to be sure not easy to see how those who do not consider the severe harms of relational poverty to be human rights violations would be persuaded by what has been said in this paper. But this need not be the primary task of juridical empowerment. Perhaps the more important task is to show that such minimalist accounts carry the burden of proof.

3. I took Kant's idea of rightful honour, which is a self-regarding duty, as a lead for juridical empowerment. Self-regarding duties are, however, controversial (see, against Kant, Schopenhauer 1965 [1840], §5). One could therefore object that the suggested account of empowerment would be based on a disputable idea. The response here is to note that though the assertion of one's own human rights is a self-regarding demand,<sup>14</sup> this is non-committal to the metaphysical way Kant defends the idea of self-regarding duties (*MM* 6:418 ff.). Practical imperatives towards oneself need not be taken in such a robust sense of 'duty.' In fact, all demands, such as 'do not lie,' 'help the needy,' 'maximize the happiness of humanity,' and so on, make perfectly good sense from the first-person singular viewpoint towards oneself, whether they are moral or prudential.<sup>15</sup> The account of juridical empowerment remains silent on how such demands, especially if they are assigned moral character, could be grounded.

4. A related objection would state that rightful honour on its own would only suggest that the impoverished have a *self-regarding* duty to *assert* their valid claims; but how would this generate a parallel set of claims on *others* to *support* the fulfilment of this self-regarding duty? The latter doesn't obviously follow from the former.<sup>16</sup> By way of reply, it must be remembered that juridical empowerment as I have outlined it is *inspired* of the idea of rightful honour, but its connection to the obligations which others have towards the impoverished is not dependent on the way the idea of rightful honour implies (or does not imply) others' corresponding duties. According to juridical empowerment, these obligations (covered by the formal duty to juridically empower) need not necessarily arise from the self-regarding demand to assert one's own human rights. The duty to juridically empower primarily stems from the very idea of human rights, as poverty generates, reinforces, and perpetuates their violation.<sup>17</sup> Asserting one's own human rights is a substantial way to oppose these dimen-

<sup>14</sup> To put it from the first-person singular viewpoint of the impoverished towards oneself: 'assert your human rights in relation to others,' or 'by asserting your human rights, do not let others violate them.'

<sup>15</sup> I argue for this at length in Mosayebi 2018.

<sup>16</sup> I owe this objection to an anonymous reviewer.

<sup>17</sup> As a wealth of evidence suggests, people living in poverty and people born into impoverished families are most likely to stay impoverished; poverty is persistent and cross-generational (Karelis 2007).

sions of the violation of the human rights of the impoverished. Poverty—among its many harms—makes the exercise of this vital ability of rights-holders extremely difficult or even practically impossible. Those who are affected by poverty often do not know their rights, do not value them, or do not have access to a platform from which to assert these rights such that those assertions are successfully communicated. These are some of the reasons why the duty to juridically empower the impoverished obtains apart from the way one might ground the self-regarding demand of asserting own's human rights and its relation to the corresponding obligations this demand generates.

5. Another possible objection, which can be posed as a question, is whether the impoverished bear a moral responsibility to actively fight (e.g., by asserting their rights) against poverty. Iris Marion Young takes the view that 'victims of structural injustice [. . .] can be called to a responsibility they share with others to engage in actions directed at transforming those structures. Indeed, on some issues those who might be argued to be in less advantaged positions within structures perhaps should take the lead in organizing and proposing remedies for injustice, because their interests [. . .] are most acutely at stake' (2011, 113). By contrast, others, such as Deveaux, deny 'that the poor can have morally binding obligations to struggle against the structures that impoverish them' (2018, 716). According to Deveaux, it may be instead 'better to speak of responsibilities of solidarity that may arise in contexts where poor movements have gained a footing' (ibid., 717). Although she defends both the social and political significance of 'poor-led movements' in fighting against poverty, she also warns that 'we ought not to assign political responsibilities to those whose daily lives are a struggle for survival' (ibid.). One could, however, agree with both Young and Deveaux by defending the legitimacy of making moral demands on *oneself* to assert one's own rights, without being responsible or having a duty in that respect towards *others*. It is nevertheless hard to see how, as Deveaux prefers to frame it, 'responsibilities of solidarity' in 'poor movements' could come into being if the impoverished individuals had not considered asserting their rights as a moral demand primarily on themselves.

As we saw in §1.2 there are, accordingly, three levels of duties. There are duties to empower corresponding to the right to be empowered (matching  $L_2$ ), there is a self-regarding duty to assert one's own basic rights, and, finally, there are duties corresponding directly to the human rights of the impoverished (matching  $L_1$ ). The self-regarding demand of asserting one's own rights does not imply that the impoverished bear duties towards others to work against their own poverty. Moreover, the difficulties of fulfilling this self-regarding demand do not release others from their obligation to empower the impoverished, or from their duties that correspond to the human rights of the impoverished.

6. In this connection it could be also objected that failing to fulfil the self-regarding demand of asserting one's own rights would imply that the bearers of this responsibility are blameworthy. But—the criticism would go on—those who live in poverty by definition live with so few resources that their subsistence is threatened. If we empowered the impoverished, but they still did not assert their rights on that score, then putting the moral burden on the impoverished would be morally objectionable.

For one thing, individuals' inability to assert their own human rights is certainly one of the important harms of living in poverty, but it is of course not the sole reason why poverty is morally wrong. As we have seen, failing to assert one's own human rights does not suspend other responsibilities or duties that others have towards the impoverished. Nevertheless, there is a sense in which the impoverished could blame themselves if they, given

certain threshold standards, *were* able to assert their rights but fail to do so. I am not sure what could be morally objectionable about this kind of self-blaming if it does not lead to other harms. However, it is difficult to see whether others, especially those who are not affected by poverty, are justified in blaming the impoverished for failing to be empowered: Blaming the impoverished, on one hand, does seem to be unfair. Avoiding any form of blame on the basis that the impoverished are passive ‘victims,’ on the other hand, runs the risk of patronizing them. While I see the latter as of a piece with the beneficiary-oriented attitude towards the impoverished, it seems that *prima facie* we should not put the burden on the impoverished, but rather on the very expedience of certain processes of empowerment. If the impoverished, for example, were under the influence of inappropriately adaptive preferences (see n. 9), as is often the case, then empowering them is not an easy task and needs continual improvement.

7. Finally, a general criticism of empowerment is that it could become self-defeating, and keep the empowered powerless, passive receivers (cf. Dryzek 2015, 372). Criticizing the development programs for ‘third-world’ countries, Singh and Titi claim that ‘the powerful may appear to be conceding power, but they do so in order to manage the powerless. Empowerment, therefore, is a contradiction in terms; *there can only be self-empowerment*’ (1995, 34; my emphasis). Another version of the charge refers to certain forms of empowerment that are rather disempowering in other respects. This has been raised against outsider-imposed agendas which seemingly contravene the central feature of empowerment, namely that it is a process from within. Andrea Cornwall and Karen Brock (2005) make this criticism against the empowerment role of World Bank programmes for legitimizing hierarchical decision-making processes. In addition, Bolaffi et al. write that ‘the imposition of strategies for empowerment is itself disempowering in treating people in relatively powerless positions as if they have no agency or competence. In effect, it denies them participation in the process that is supposed to empower them’ (2003, 86).

Juridical empowerment is not easily involved in these difficulties. What is from the beginning at stake in this conception is the very determining agency of the impoverished as rights-asserters. The two-layered nature of juridical empowerment ( $L_{2-1}$ ) thereby prevents empowerment from being misused in a paternalistic way: at the end of the day, it is the impoverished themselves who demand their valid claims, not the externally empowering sources. Moreover, the content of the asserted claims are *human rights*. They concern everyone in a way that is compatible with a wide array of conceptions of well-being (see Article 2 of the UDHR).

As for the claim that ‘there can only be self-empowerment’ (Singh and Titi 1995, 34), if it would imply that there must be only self-empowerment *all the way down*, or at every level of specificity, then it is hard to imagine how it could be defended. For one thing, it would imply that everyone is on their own, and thus absolve the powerful of responsibility. Besides, it would counterintuitively make *any* form of external empowering support an attempt to keep the ostensibly empowered actually powerless. Juridical empowerment, as I mentioned in §1.3, is about making it possible for the impoverished to take part in and develop a process of self-empowerment. This is a process of recognizing one’s rights, making a demand on oneself to assert them, and finally claiming them against the respective addressees.

### 3 Conclusion

Those who are affected by poverty not only suffer material deprivations, but also are subject to extreme inequality and are stuck in relations that reinforce and perpetuate this inequality. Many of the basic needs of the impoverished could be addressed in the language of human rights, the world's current moral *lingua franca*. One substantial way to oppose their unequal status, as well as the unjust relations causing it, is, however, for the impoverished themselves to stand up as rights-holders by asserting their own human rights. This requires others to enable them to some extent, namely to the extent that they can develop themselves as rights-asserters. I call this *juridical empowerment*. It is an empowerment that lays the ground for *self-empowerment*.

Although inspired by Kant's idea of rightful honour, I have outlined this qualified conception of empowerment in ways that are compatible with both a pluralism of comprehensive conceptions of empowerment and substantive accounts of the moral wrongs of poverty. Despite not being directly engaged with the latter, I emphasized that the reasons justifying juridical empowerment are mainly moral. Accounts of poverty reduction that draw on the 'tool' of empowerment often focus on practical strategies or prudential reasons. While juridical empowerment can be well supported by such strategies and reasons, it more importantly pertains directly to the determining role of the impoverished in matters of their moral rights and their self-respect.

As both an overarching goal and a substantive contribution, I have argued that juridical empowerment should play an important role in overcoming poverty, while of course also working with other measures against poverty.

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