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**SPECIAL ISSUE**

**Human Rights under Threat**

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## INTRODUCTION

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**H**uman rights face at least three major threats today. The first threat comes from sovereign debt repayment. Many developing countries such as Afghanistan, Bolivia, and Ghana are highly indebted, which impairs their economic development and their ability to meet social human rights (Zaghdoudi et al. 2017). Moreover, since 2015 the US Federal Reserve has been steadily rising interest rates, which lowers foreign investment in developing countries, and increases the need for debt and its cost (Kuepper 2018). Second, the specific requirements of social human rights and their correlative duties have always been hard to specify, which makes it easier for governments to evade their obligations in the field. The ideas of ‘progressive realisation’, ‘all appropriate means’, and ‘use of maximum available resources’ are still undertheorized. The third threat comes from a decade-long worldwide decline in democratic indicators (Freedom House 2018), which in several ways reduces states’ ability to meet human rights—e.g., if democracy promotes economic growth (Acemoglu et al. 2014), a decline in democracy may reduce available resources for meeting social human rights.

The articles in this RLFP special issue address the three threats to human rights. The articles by Victoria Kristan and Anahí Wiedenbrüg were originally presented at the 2017 Workshop of the *UK-Latin America Political Philosophy*

*Network* (UKLAPPN). This burgeoning network is supported by a British Academy grant (the International Partnership and Mobility Scheme), and it involves scholars from Argentina, Brasil, Chile, Colombia, Costa Rica, Mexico, UK, and Uruguay. The workshop focused on economic and social human rights, and the principles for progressive realization. The two articles were hotly debated during the workshop, and the versions that are published here reflect that debate. The article by Federico De Fazio was originally presented at a 2017 Coloquium on ‘The future of practical philosophy’ at the Argentine Society for Philosophical Analysis (SADAF).

In *Human Rights, Sovereign Debt, and why States Should not Keep their Promises*, Anahí Wiedenbrüg claims that if repaying a foreign debt undermines socio-economic and collective human rights, there is a strong justifying reason not to repay that debt. Most normative approaches to foreign debt and human rights typically claim that if a debt contract was signed by a state that violates human rights, the contract is illegitimate. But foreign debt contracts are often signed by states that do not violate human rights at the time of signing, and whose debt becomes a threat to human rights later on. Wiedenbrüg’s innovative approach grants that such contracts can give rise to legitimate obligations, but she claims that debt obligations may nevertheless be overridden by human rights obligations. Her analysis is backed by a historical explanation of how international institutions and processes partly caused current high levels of foreign debt.

In *Social Rights and Proportionality Analysis*, Federico de Fazio specifies the conditions under which judges should conclude that a social right was infringed by a state. De Fazio engages this challenging task with the tools of Robert Alexy’s proportionality analysis. The first challenge is to determine which actions are correlatively required by a social right, given that constitutional social rights are typically formulated in very generic terms. De Fazio argues that any action that can contribute to fulfilling the right counts as *prima facie* required.

The second challenge is to determine when those *prima facie* required actions are all-things-considered required. De Fazio first argues that only *legitimate* ends can provide reasons that outweigh social rights, by which he means ends that are either required or not prohibited by the constitution. But when are these ends actually outweighed by social rights? De Fazio provides a strongly positivistic answer: in any given case a judge should regard a social right as weightier than a legitimate end if previous judicial decisions in analogous cases regarded the right as weightier than the end, or if the social right is grounded on an additional constitutional norm which is customarily regarded as weightier than the end.

In *For the People: A Republican Stand on International Intervention*, Victoria Kristan brings new light to the complex connections between human rights, legitimacy, and democracy. The standard view on international interventions is that they are justified only in order to prevent human rights violations. Kristan argues that interventions are justified also in order to foster or protect political legitimacy. She provides two main arguments that challenge the standard view in its own terms. Kristan first argues that there is a human right to democracy, and that democracy is a necessary condition for political legitimacy. Thus, even granting that only human rights warrant intervention, protecting democracy—and therefore protecting legitimacy—also warrants intervention. Her second main argument is also a spin on the standard view on intervention. Kristan argues that human rights can only be secured by legitimate institutions. Thus, if interventions aim at properly securing human rights, they should aim at securing legitimacy. This argument is deployed using the republican framework: domination between private agents, which endangers social and economic human rights, can only be safely prevented when there is political legitimacy. And political legitimacy requires that political institutions do not dominate their subjects.

The three articles make a significant contribution to human rights theory. They provide original tools for meeting the three

urgent challenges with which we started: the challenge of foreign debt constraints on the ability to meet human rights; the challenge of adequately specifying social rights; and the challenge of strengthening the democratic underpinning of human rights. If we end up being unable to practically address current challenges, it will not be due to a lack of theoretical tools.

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