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CENTRE FOR COMPARATIVE AND PUBLIC LAW
AT THE FACULTY OF LAW, THE UNIVERSITY OF HONG KONG

HKU CCPL TALK

Social and Economic Rights: An International and Comparative Argument for Justiciability

23 February 2024 (Friday) 1:00 - 2:00 PM
Academic Conference Room, 11/F Cheng Yu Tung Tower, HKU

In 1945 the Universal Declaration of Human Rights for the first time comprehensively catalogued the fundamental human rights which should be guaranteed to all persons. This declaration was an aspirational statement of goals which made no distinction between classes of rights. During attempts to transpose this document into one legally enforceable treaty, negotiations deteriorated into polemics with each side adopting extreme discordant approaches, resulting in its abandonment. Accordingly, it was agreed that two treaties would be drafted, marking the initial and persistent divide in international law between the two sets of rights which set them on divergent paths with differing degrees of importance being attached to each. The subordination of social and economic rights to their civil and political counterparts in international law created significant difficulties in the propagation of, and force accorded to, these rights. As a result of their subjugation the struggle for equivalent legal protection in international, regional and domestic systems has been an arduous one.

To that end the main focus of this paper is illustrating the positive impact that the courts have had when they have deigned to intervene and argues that without elevating social and economic rights to within the purview of the judiciary, the result is that these rights will remain perceived as less important than their civil and political counterparts. To illustrate this point, the paper will draw on the impact of the optional protocol to the ICESCR, jurisprudence of the European Court of Human Rights and a comparative analysis of protections offered in South Africa, India, Canada and Ireland.

SPEAKER:

Dr Claire-Michelle Smyth

Associate Professor of Law, Kingston University, UK



Dr Claire-Michelle Smyth's research interests are within the areas of International Law and Human Rights with a specific focus on Social and Economic Rights and Women's rights. She has teaching and supervision expertise in these areas in addition to private law areas of mainly Equity and Trusts and Contract Law. Her research and publications are widely within these areas. In addition to her teaching and research at Kingston University, she is also the Postgraduate Law Coordinator working to enhance the provisions of LLM and PhDs.

CHAIR:



Professor Simon Young

Ian Davies Professor in Ethics

Faculty of Law, The University of Hong Kong



Prior registration is required for this in-person event: <https://bit.ly/3SEQaVL>
For inquiries, please contact Flora Leung at ccpl@hku.hk.