

# To what extent can equality law be utilised to address socio-economic inequality in Great Britain?

## Great Britain has high levels of socio-economic inequality

- 90% of individuals in Great Britain earn 1% of the income of the top 0.1% of earners
- Socio-economic inequality is increasing (the wealth of the top 0.1% has increased 4.6 times the rate of the 90% since 1997)
- It impacts the social and health outcomes (e.g. life expectancy, mental illness etc) for all citizens both rich and poor

*This picture of Sao Paulo, Brazil illustrates the stark contrast between rich and poor and the inter-related nature of socio-economic inequality*



## Traditional economic views reject intervention by the state

- Individual liberty (Hayek) or wealth maximization (Posner)
- State should play minimal role (only ensuring liberty or conditions for individuals to maximize their wealth)
- Favour market order where winners and losers are determined by the players' efforts as this is most beneficial to society

*'to take notice of the factual inequality of individuals, and to make this the excuse of any discriminating coercion, is a breach of the basic terms on which free man submits to government' (Hayek)*

## Recent policy attempts are also flawed

- Increasing recognition of the state's need to intervene
- Led to various government policies (Social Mobility/Poverty)
- However these lack permanency (they change when governments change), can conflict and have arguably been ineffective (socio-economic inequality is increasing)

*'the statutory goal of ending child poverty by 2020 will in all likelihood be missed by a considerable margin...[and] the economic recovery...is unlikely to halt the trend of the last decade, where the top part of society prospers and the bottom part stagnates' (Alan Milburn)*



## Traditional economic views are flawed

*According to traditional economic views there is nothing wrong with the situation on the left, the business man just tried harder/played the game better than the homeless man*

However:

- This ignores positive aspects of freedom (i.e. Sen's capability approach which focuses on what people can actually do)
- This wrongly assumes people always act rationally (i.e. selfishly to advance their preferences)
- This ignores that the initial distribution determines a player's success (i.e. those born poor stay poor etc)

# Equality law can be utilised to regulate socio-economic inequality

### Equality law is a form of regulation

- Regulation is 'the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes, which may involve mechanisms of standard-setting [e.g. direct discrimination], information-gathering [e.g. public sector equality duty] and behaviour-modification [e.g. equal pay]' (Black, 2002)

### As a result regulation literature can be utilised

Viewing equality law as regulation means different rationales can be utilised to determine the most effective equality law model.

Prosser outlines four rationales:

1. To maximize efficiency and consumer choice
2. To protect human rights
3. To support social solidarity
4. To advance participation and deliberation

### Further Research

- Existing models of equality law (e.g. direct discrimination, equal pay, public sector equality duty etc) will be mapped on to the regulatory rationales
- Possible legal definitions of socio-economic inequality will be explored (eg socio-economic disadvantage in Equality Act 2010)
- How local authorities identify and address in education provision will be investigated via semi-structured interviews

### References

- Black J, 'Critical Reflections on Regulation' (2002) 27 Australian Journal of Legal Philosophy 1  
 Hayek F, *The Constitution of Liberty* (Routledge and Kegan Paul 1960)  
 Hayek F, *Law, Legislation and Liberty* (Routledge and Kegan Paul 1973-9)  
 Posner R, *The Economics of Justice* (Harvard Publishing 1981)  
 Prosser T, *The Regulatory Enterprise: Government, Regulation and Legitimacy* (Oxford University Press 2010)  
 Robinson M, 'The Wealth Gap - Inequality in Numbers' (The BBC World Service, 17 January 2012) <http://www.bbc.co.uk/news/business-16545898>  
 Sen A, 'A Critique of the Behavioral Foundations of Economic Theory' [1977] 6(4) Philosophy and Public Affairs 317  
 Sunstein C, *After the Rights Revolution: Reconceiving the Regulatory State* (Harvard University Press 1990)  
 Wilkinson R and Pickett K, *The Spirit Level: Why Equality is Better for Everyone* (Penguin 2010)

