**The 4th Annual Conference of the Centre for the Study of Global Ethics**

**The University of Birmingham**

**31 May and 1 June 2018**

**Abstract submission:**

**On rights and wrongs: the right to exclude in international law**

In the last two decades, we saw a rapid emergence of the inclusion of intellectual property rights (IPRs) standards in free trade agreements, combined with an increased reliance on international investment agreements to protect IPRs as well as a clear demand to provide for stronger trade secret protection, domestically as well as through international mechanisms (Yu 2016, USTR 2017). These evolutions demonstrate a remarkable development in international economic law: the dissemination of rights to exclude, and rights to enforce these exclusions.

These developments raise significant questions. The traditional general right to property (included in most human rights treaties) defines that ‘no one shall be arbitrarily deprived of its property’ – leaving the precise meaning and application of this criterion to the domestic legal order (Sprankling 2014, Dolidze 2016). In international treaties legislating IPRs and the protection of investment, however, substantive criteria have been introduced, restricting the scope of limitations on these rights. What is more, by including rights to exclude in international treaties, the authority to decide on the scope and application of these rights is transferred to the international legal order and its judiciary.

It is the aim of this paper to examine to which extent these ‘rights to exclude’ can be qualified as a ‘property right’ and whether transferring the scope and application of these rights to the international level poses a problem with regard to the justification of these rights. More specifically, it will be assessed to which extent internal limitations on property rights (preventing the coming into existence of property rights, or adapting the specific protections) and external limitations (limiting the enjoyment of property rights for compelling interest) are pivotal to uphold justifications of these rights in a global context.

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**Publications:**

* Diependaele, L., Sterckx, S., "Mandating data exclusivity for pharmaceuticals through international agreements: A fair idea?", in Boonin, D. (ed.) *Handbook of Philosophy and Public Policy*, Palgrave Macmillan (in press).
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