Human Rights and Economics: Tensions and Positive Relationships

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The World Bank

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Human Rights and Economics: Tensions and Positive Relationships

Prepared for the Nordic Trust Fund/World Bank by GHK Consulting Ltd.
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Foreword

This study discusses the interaction between human rights and economics. The first part provides a comparison of basic concepts in economics (mainly welfare economics) and human rights and concludes that while tensions and differences exist, the approaches adopted by human rights and economics are largely complementary. Convergence of perspectives and approaches between human rights and economics is therefore part of the emerging reality of development. The second part of the study provides a number of examples where human rights have contributed to and formed part of economic policies. The examples provide evidence that human rights integration may contribute positively to poverty reduction.

The work leading up to the preparation of the study was led by Hans-Otto Sano, Task Team Leader, under the supervision of Anders Zeijlon, Coordinator, and was commissioned and funded by the Nordic Trust Fund in the Knowledge and Learning Department in the Operations Policy and Country Services Vice Presidency of the World Bank. The study was prepared by a team from GHK Consulting led by Nicolaj Sønderbye and including Margot E. Salomon, Colin Arnott, Phil Bernard-Carter and Nikolaos Papachristodoulou.

World Bank peer-reviewers Ambar Narayan, Bénédicte Leroy De La Brière, Dena Ringold, and Varun Gauri provided comments and valuable suggestions throughout the preparation of this study. This included a concept review meeting in early 2011, a draft review meeting in January 2012, and an assessment of the final draft report in March 2012. Behnaz Bonyadian and Sheldon Lippman provided valuable assistance in the final editing of the report.

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Operations Policy and Country Services
The World Bank
Nordic Trust Fund (NTF) is a knowledge and learning initiative to help the World Bank develop a more informed view on human rights. It is designed to improve existing Bank involvement on human rights in the overall context of the Bank’s core mission of promoting economic growth and poverty reduction. The NTF is managed by a secretariat in the Operations Policy and Country Services vice-presidency (OPCS). Financial and staff support for the NTF is provided by Denmark, Finland, Iceland, Norway, and Sweden, with additional funding provided by Germany.
# Acronyms and Abbreviations

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<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>BOTT</td>
<td>Build-operate-train-transfer</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination against Women</td>
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<tr>
<td>CESCR</td>
<td>Committee on Economic, Social and Cultural Rights</td>
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<td>COBTAK</td>
<td>Coalition of Budget Transparency Advocates in Kano</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>DAC</td>
<td>Development Assistance Committee</td>
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<td>DANIDA</td>
<td>Danish International Development Agency</td>
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<td>DFID</td>
<td>Department for International Development</td>
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<td>EU</td>
<td>European Union</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GNI</td>
<td>Gross National Income</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<td>ICRC</td>
<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families</td>
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<td>IDB</td>
<td>Inter-American Development Bank</td>
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<td>ILO</td>
<td>International Labor Organization</td>
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<td>MDG</td>
<td>Millennium Development Goal</td>
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<td>NGO</td>
<td>Nongovernmental organization</td>
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<td>NTF</td>
<td>Nordic Trust Fund</td>
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<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
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<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<tr>
<td>PROGESA</td>
<td>Programa de Educación, Salud y Alimentación</td>
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<tr>
<td>Sida</td>
<td>Swedish International Development Cooperation Agency</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<td>UNDP</td>
<td>United Nations Development Program</td>
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<td>UNICEF</td>
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Executive Summary

The desk study on Human Rights and Economics investigates the relationship between human rights and economics, in particular reflecting on tensions, misconceptions, synergies, and positive relationships. The study presents arguments on how human rights approaches may improve development outcomes and the quality of economic growth, both in short and in longer terms. Furthermore, the study presents a series of case studies demonstrating how human rights have been integrated into development policies and how this has affected economic policy, if at all. The study comprises two parts: Part 1 gives a conceptual overview of human rights and economics discourse, and Part 2 describes how human rights may be integrated practically into development economics.

Key Concepts

At the conceptual level, the study suggests the following: Human rights standards, principles, and doctrines can complement mainstream economics by informing the value judgments that underpin the objectives of development. Some commentators see the relationship between human rights and mainstream economics as fundamentally irreconcilable; others, however, highlight areas of convergence and complementarity between human rights and economics.

This study identifies the following convergences and conceptual challenges:

- **Human rights focus on the worth of every human being** and are concerned with the distribution of power and resources. For economics, this means a need to focus on the distribution function—not just production and exchange functions—and put distributional effects at the center of economic development policies and value judgments.

- **Putting people at the center of economic development** requires focusing on disaggregated/marginal distributional outcomes rather than aggregate/average outcomes or a mere emphasis on efficiency.

- The prioritization of human rights in economic policy and decision-making requires **clearer recognition of human rights as an internationally accepted framework**. Developing robust criteria to test and measure the application of international human rights law to determine and guide the mitigation of any economic restrictions of rights is useful.

- There is a need for **new explicit welfare economic norms and value judgments** built around distributional equity and redistribution goals that reflect human rights objectives. These value judgments include:
  - prioritizing minimum essential levels of socio-economic rights for all;
  - equal distribution of the means to realize socio-economic rights necessary for a dignified life, except where an unequal redistribution would benefit targeted disadvantaged members of society;
  - presumption that there will be no retrogression of rights, and as such an avoidance of non-redistributive resource allocation against certain groups;
  - definition of “compensation” that requires remedial justice in the event of a violation.

- The importance of freedoms could be recognized more clearly in preventing elite capture and allowing for
societal actors to debate and negotiate the future of societal strategies.

**Operational Aspects**

At a practical and operational level, the study suggests the following:

*Human rights add value when it comes to the quality of economic growth, and specifically the distribution of growth within a society.* As such, they should not be seen as constraining economic development and growth but seen rather as a framework for economic development, which can inform economic policy and guide social welfare on aspects related, in particular, to equity.

*Human rights can be an effective tool for poverty reduction for three reasons:* (a) Human rights contribute to empowerment and social protection of marginalized groups through social mobilization and mechanisms of strengthening accountability. (b) Human rights reinforce the work on equity and equality by emphasizing non-discrimination, raising a demand for disaggregate approaches and for documentation of how groups are involved and how they participate. (c) Human rights bring added attention to legal approaches, a feature that local actors, including state authorities themselves, are employing in social mobilization strategies.

*Equality, equity, and non-discrimination are widely justified according to economic development arguments, particularly with reference to gender equality.* Economic and social development policies, which engage women and men in a more equal manner, can improve economic development as well as rights outcomes; lack of equitable treatment between groups can lead to disenfranchisement and conflict. Equity and non-discrimination are used as principles to improve social cohesion; educational outcomes; and, thereby, the economic prospects of children.

*In order to benefit the poorest, human rights-based interventions must be clearly targeted.* Human rights-based policies such as rights to information may only benefit the educated middle classes unless they are supported by additional capacity-building measures.

*The study findings indicate a number of themes and sectors where human rights have been integrated in policymaking.* This goes for social and gender policies, migration policy, land rights, and private sector engagement with surrounding communities and societies. Human rights are cornerstones of citizenship. Civil and political rights are important in enhancing service delivery and in preventing elite capture and corruption. Human rights are therefore an implicit or explicit component of effective governance policies.

*Human rights are grounded in international and often national law and based on ratified commitments by states; these laws and commitments are often ignored in development programming.* Legislation used in combination with targeted mobilization efforts can generate sustainable social outcomes, especially when supported by strong political commitment. Alternatively, court interpretation of constitutional rights implies lasting changes in social entitlements and service delivery. Human rights are measurable through recently developed and internationally recognized indicators. These can be adapted for use in economic and social tools and metrics to plan policy; design programs and projects; set terms and conditions for economic assistance; and evaluate processes and outcomes.

Generally, the analyses and examples of the study demonstrate that human rights have entered development policies and programs as a positive instrument for people and for their governments. The implementation of human rights becomes part of a domestic policy field, not an externally generated one. As such, human rights may serve to mediate domestic agendas productively. The risks of capture by elites and middle classes are present, but most of the examples related here demonstrate important potential gains with regards to the quality of economic policies and the target groups of development policies. Lack of knowledge of the human rights framework by development actors could be more important in explaining tensions than de facto disagreements. Thus what has been brought forward by this study is a perspective of complementarity between human rights and economics. This perspective may translate into promising results as regards poverty reduction and the quality of growth.
1. Study Objectives and Methodology

This desk study on Human Rights and Economics covers the theoretical and conceptual aspects of the interaction of human rights with economics. The study does not analyze in any systematic manner whether human rights lead to economic growth. Neither does the study elaborate on the importance and implications of human rights-based approaches in development.¹

1.1 Objectives

The study presents the economic case for integrating human rights into development policies and programs. Its objective is to investigate the relationship between human rights and economics, reflecting in particular tensions and positive relationships. The study provides arguments and examples of how the application of human rights may positively impact on development and the quality of economic development, whether in the shorter or in the longer term. It also provides examples of how human rights have been integrated into development policies and how this has affected economic policies.

1.2 Approach and Methodology

The first part of the study focuses on the conceptual discussion; an overview of the debate between economists and human rights proponents. The second part presents a macro- and country-level analysis of how human rights concerns may be integrated practically into economic policies with examples of how human rights have influenced programs and policies at national as well as at international levels.

The study was commissioned by the Nordic Trust Fund, which supports programs within the World Bank to develop an informed view on how human rights relate to the World Bank’s core mission of promoting economic growth and poverty reduction. The study was carried out between October 2011 and February 2012 by team leader Nicolaj Sønderbye of GHK Consulting Ltd. and team members Margot Salomon (leading on Part 1), London School of Economics, with support from Colin Arnott, Phil Bernard-Carter, Liisa Kytola, and Nikolaos Papachristodoulou all from GHK Consulting Ltd.

Literature scan and document review

To address the questions outlined in the terms of reference (Annex 4) the team draws on a number of country, policy, sector, and program examples to illustrate the features of interaction between human rights and economic development.

A literature scan and preliminary research provides a comprehensive overview of relevant stakeholders, programs, projects, initiatives, and human rights and economic discourse. The literature is classified according to the themes addressed in Part 1 and 2. The literature reviewed for Part 2 identifies concrete examples that illustrate the tensions and complementarities identified in Part 1.

Analytical framework

An analytical matrix, which frames the approach taken in the study, is based on the questions derived from the terms

of reference, a preliminary document review, and feedback from consultations held with the NTF coordinator in November 2011. The analytical matrix and study questionnaire is shown in Annex 2.

Semi-structured interviews and consultations

Some primary research was conducted by gathering expert views and data from key informants at the World Bank whose work was closely related to the study. A list of persons consulted is included in Annex 3.

Communication, coordination, and client meetings

The analytic model of the study took shape from regular video and telephone meetings with the NTF Senior Program Officer in discussions of emerging themes from the desk study and key research questions identified in the terms of reference. The analysis was integral to the work of summarizing the collected information and drafting the study report. Regular communication among the study team and with the client (and other experts where relevant) was critical in exploring, testing, and challenging hypotheses and arguments.

Reporting

An interim report was presented to the World Bank and the Nordic Trust Fund on January 23, 2012, and served as a discussion focus at a triangulation workshop. Written comments to the interim report were received on January 31, 2012. The draft final report was submitted on February 13, 2012. A presentation of the final draft to the World Bank was on February 27, 2012. The final report incorporates comments from the presentation.

Structure of the report

The report is structured as follows:

- **Chapter 1** introduces the study background, its purpose, and objectives; the methodology and structure of the report.
- **Chapter 2** presents the concepts and provides an overview of the current human rights and economics discourse (Part 1).
- **Chapter 3** discusses how human rights have been integrated into economic policies at country and program level (Part 2).
- **Chapter 4** concludes with possible options for consideration.

Part 1 condenses the debate between mainstream economics and human rights. It identifies tensions and synergies between the approaches and priorities of welfare economics and those of international human rights law in the area of economic, social, and cultural rights, and then offers key ways in which human rights can contribute to welfare economic analysis.

2.1 Putting Human Rights in Perspective

The aims of this study are threefold:

- **Clarify misconceptions** such as, for example, human rights are absolute and universal and therefore do not allow for trade-offs or are systemic and therefore do not allow for prioritization;
- **Explain central doctrines in the area of socio-economic rights and elaborate on their current interpretation in order to highlight their (latent) significance to economists working on development policy**; and
- **Progress the conversation between development economics and human rights**.

The study explains how human rights-based value judgments—aimed at fairness and justice, in particular, for the most marginalized—might inform economic decision-making. Human rights are not merely normative frameworks. Human rights are grounded in international (and often national) law. This points to the fact that human rights laws are the product of negotiated consensus among states, each with equal voice and one vote. Within the United Nations (UN) today, 193 states have the opportunity to participate in the drafting of human rights treaties and then to offer their consent to being bound by its precepts. As such, human rights tend to possess a preeminent international legitimacy. Where a state has given its consent to be bound, it has the force of law. Human rights treaties have been widely ratified; for example, 160 states are party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and 167 states are party to the International Covenant on Civil and Political Rights (ICCPR) and almost universal ratification of the Convention on the Rights of the Child (CRC). A ratified treaty is legally binding on all branches of government. International judicial bodies are charged with the interpretation of the treaties in which the rights and the state parties’ corresponding obligations are based. For years, even decades, the content of rights and the nature and scope of obligations have been fleshed out, offering a considerable degree of normative specificity and, notably, a general consensus among the international community of states as to what constitutes minimum standards of dignity for everyone.

Who are the economists referenced when asked to identify the “tensions and positive elements between economists and human rights proponents”? While mainstream economists do not represent the entirety of the discipline, they do represent broad strands of the discipline drawing inspiration from various schools of economic thought (Branco 2009: 3). The report relates to this broad group in particular. However, as Balakrishnan, Elson, and Patel (2009: 1–2) point out, there have always been progressive, critical welfare economists
committed to the creation of socially just economies, yet skeptical of securing such economies through mainstream economic policies. And Branco (2009: 3) remarks that economists who do not share the same principles of mainstream economists may be “at best exiled to such peripheral domains as sociology, history or the philosophy of economics”.

The tensions and synergies that are investigated in Part 1 should thereby be understood to constitute a consideration of the approaches taken by mainstream economists in particular.2

2.2 Realism, Resources, and Universalism

At a general level, the debate between human rights proponents and mainstream economists highlights a number of tensions in light of the fact that, as Reddy (2011: 63) puts it, scholars and practitioners in both fields present specific and seemingly contrasting views as to how society should be organized and why.

Mainstream economists might suggest that human rights offer merely broad principles but no tools with which to make specific policy choices or to assist in setting priorities, or that they are concerned only with the realization of human rights as an end in itself, or that human rights represent intrinsic values and as such make necessary compromise difficult. Moreover, economists might be uncomfortable with the legal formulation that all human rights—civil and political, or economic, social, and cultural—are indivisible. In other words, they are of equal importance, and it is impermissible to promote certain rights at the expense of other rights; and they are interdependent in that they are mutually reinforcing and perhaps causally linked (Box 2.1).

Human rights proponents might argue that economists lack concern for the ethical consequences of their policies and for the negative consequences of growth for those left behind (Seymour and Pincus 2008: 387–405). They might query whether economists are interested—in so far as they integrate human rights into their work1—with merely the instrumental value human rights might bring to decision-making. The idea of “universal” human rights to a discipline premised on utilizing scarce resources in the most efficient way would seem to represent a clear tension, but this would be premised on a terminological misunderstanding that should be resolved at the outset. The notion of universal human rights points to minimum standards of dignity to which every person in the world is entitled. Human rights are universal; that is, they are universal entitlements. People have legal human rights in so far as they are provided for within their domestic legal system and/or provided for on the basis of international law. The idea that rights are universal, while significant, does not indicate, in and of itself, what human rights obligations a particular government might have. There are strong arguments to suggest that the minimum level of socio-economic rights (for example, the right not to be hungry, the right to adequate sanitation, the right to basic healthcare) are customary international law, which would make them rights that are truly universal, rights that anyone can, in principle, claim (Box 2.2).

The universality of human rights is not the only basis upon which economists might query whether the way in which human rights are framed is unrealistic or perceived to be unrealistic by duty-bearers, purporting strategies and economic policies that are not feasible. While human rights are inherently systemic—that is, a whole body of human rights laws and principles are to be considered—economic

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2 Reflecting about alternative interpretations, the Rawlsian value judgment, for example, is particularly relevant to international development economics in its concerns with poverty reduction. Rawls (1971) argues for a concept of justice where the ‘primary’ goods—liberty, income and other bases of self-respect—are to be distributed equally except where their unequal distribution is to the benefit of the least advantaged members of society.

3 Reddy (2011: 63) remarks: “It should be noted that very few economists of any persuasion have explicitly integrated human rights into their work until the past decade, even if there were human rights related concerns motivating such work”.

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Box 2.1: Human rights are universal

“All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”

thinking focuses on choice in a world of scarcity. At first glance, the former feature may make it difficult to negotiate, and the latter might allow too easily for trade-offs that are not consistent with human rights standards.

It is true that at least since the adoption of the Vienna Declaration on Human Rights in 1993, emphasis has been placed on recognizing rights as universal, indivisible, interdependent, and interrelated; however, any necessity to prioritize certain rights in a given context does not counter that tenet. That the various human rights are entitlements of each and every individual and are mutually reinforcing does not negate the fact that there can be many reasons to have to make choices about which rights to prioritize. In short, universal human rights do not mean that trade-offs are impossible, but human rights prescribe certain parameters on the process and outcomes of those trade-offs.

**Guidance from human rights on making choices**

Seymour and Pincus (2008: 395) note that the recognition of rights does not specify the means through which they can be realized; nor, it has been suggested, do rights-based approaches offer “a specific metric for making trade-offs” (Gauri 2004: 472). Human rights proponents have been accused of thinking only in the present tense (concerned about violations here and now), and allowing only unidirectional progress (condemning progress that takes one step back in order to go two steps forward) (Archer 2006: 83–4). Human rights are also often seen as being unable to direct choice when it comes to two goods (education and health, for example), and proponents often contest the idea of limited resources and scarcity that form the basis of economic decision-making (Archer 2006: 83–4). While not inaccurate, this description as to the particularities and limits of human rights should not suggest that international human rights law has little to contribute to economic decision-making.

At a general level, a human rights approach “demands that we question the status quo, render explicit the concerns of the oppressed and the poor when thinking through policies, and not take resource constraints as natural givens but treat them as the result of past choices” (Uvin 2004: 191). Human rights are alive to exploitation both past and present (Seymour and Pincus 2008: 389, 401), and expect that their impacts are addressed where trade-offs are considered. As will be more fully addressed in section 2.3, an understanding of human rights objectives potentially offers development economics new value judgments to incorporate into welfare decision-making, which may prioritize greater distributional equity or other fairness judgments over, for example, simple growth maximization, better reflecting development policy objectives. These value judgments can be drawn from the

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4 In economics “scarcity” simply means that resources/goods are in limited supply. In this sense no resource is infinite and everything is therefore “scarce”. It is not meant to be a value judgment about whether there are enough resources globally or otherwise. Having said that, the term has come to underpin the question as to why some people do not have enough and as addressed herein regarding obligations of international assistance and cooperation human rights advocates tend to argue that “globally resources are available to fulfil at least some basic rights without having to confront the most vexing tradeoffs”—V. Gauri (2004: 465–77).

5 The issue of the just allocation of resources aside, of course there may well be other reasons that recipient governments are keen to dismiss human rights in policy-making discussions, including a fear that to include them will invite human rights conditionality imposed by donors.

6 See also, Uvin (2004: 184) remarking that: “The human rights edifice provides no tools for making choices or setting priorities”.

7 On this point, Seymour and Pincus add: Incorporating rights in “the minimum institutional set-up for social choice would enable economists to address question of exploitation and power relations that are assumed away in most welfare models.”
central legal doctrines in the area of socio-economic rights as set out in Annex 1. Further, the human rights framework provides a measure against which policy options can be assessed, including efficiency in achieving redistributional objectives.

A discussion about trade-offs is essentially a matter pertaining to priorities and the process by which decisions are taken. There is a quite clear expectation that it should engage human rights principles and standards given their status in international law such as, for example, the right to participate in decision-making, access to information, and freedom of association so that civil society can operate freely. Here is also seen the interdependence of civil and political rights and economic, social, and cultural rights in action.

Lessons from human rights on balancing competing interests

Although human rights at the level of theory have been argued to represent trumps, human rights in practice are only rarely treated that way. Moreover, international human rights law anticipates the need to resolve competing interests when it comes to a number of rights. Certain civil and political rights—the right to privacy, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association—provide for express limitations, subject to certain qualifying conditions being met. So, for example, the right to respect for private and family life requires there be no interference by a public authority with the exercise of this right, with exception that is in accordance with the law and is necessary in a democratic society in the interests of, for example, national security, public safety, or the economic wellbeing of the country, or for the protection of the rights and freedoms of others.

Where a state seeks to rely on a limitation in justifying an interference with a qualified right, international courts apply a three-part test:

• Whether the interference is prescribed by law;
• Whether interference pursues a legitimate aim (for example, is in the interest of national security or the economic well-being of the country); and
• Whether the interference is necessary or proportionate.

To satisfy the last test, it must be demonstrated that the restriction fulfills “a pressing social need” and that it is “proportionate” to the aim of responding to that need, since only the minimum interference with the right, which secures the legitimate aim, will be permitted. Proportionality requires not only that a fair balance is struck between an individual interest and the collective interest, but also that the limitation does not impose a disproportionate and excessive burden on individuals or on a particular sector of the population (Salomon 2007: 438–9). These public interest exceptions reflect the need to balance the interests of the wider community against the interests of the individual. Where this is not made explicit in the provision itself, the case law may reflect the need to balance competing interests. This can be seen in the area of minority rights, for example, where the protection of a minority or indigenous individual might need to be weighed against the collective rights of the group to which the individual belongs, or where the collective right of the minority group to its culture and livelihood is considered in light of a national economic development objective, such as the granting of mining concessions.

In so far as socio-economic rights are concerned, the International Covenant on Economic, Social and Cultural Rights (ICESR) provides in Article 4 that:11

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

A multi-part test is applied also to the limitation of socio-economic rights whereby:

Such restrictions must be in accordance with the law, including international human rights standards, compatible with the nature of the rights protected by the Covenant, in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare in a democratic society.

The burden of justifying limitations on rights rests with the state. The UN Committee on Economic, Social and Cultural Rights (CESCR), the body that is authorized to interpret the Covenant, affirms that this limitation provision is primarily

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8 European Convention on Human Rights, Articles 8–11, and Article 1 of Protocol 1 (Right to Property).
9 European Convention on Human Rights, Article 8(2).
10 For an overview, see Ovey and White (2006: 218–40).
intended to protect the rights of individuals rather than to permit the imposition of limitations by States”.

What does this brief coverage of qualified rights indicate for purposes of this study? First, it may help dispel the idea that rights-talk is absolute and thus of little significance to economists charged with making choices as to the allocation of scarce resources. Second, while certain human rights-based claims might not necessarily constitute absolute trumps, they do possess a pre-eminent value against which the merit of other values (national economic development, for example) is to be justified. As such, actions that are supported by the majority of the population—and even where the action in question would increase the total utility (or well-being) of the population as a whole—may be illegal in that the interference constitutes a violation of human rights. Finally, Branco’s reference to the status of human rights as “special deference without treating them as absolute trumps” is consistent with the view that “both utility-maximization and the protection of fundamental rights are legitimate public policy goals”, even if, as Branco (2009: 22) argues, “social utility is a legitimate goal, but under no circumstances should it overrule human rights”.

2.3 Human Rights and Mainstream Economics: Tendencies, Tensions, and Added Value

Following the preceding overview of the debate between human rights scholars and economists, this section helps to distinguish myth from fact when it comes to purported tensions between the fields, and considers systematically what human rights might offer economic decision-making. The section will delve into the potential contribution of human rights to setting the important value judgments that welfare economic analyses of policy choices and priorities require; examining the process of, and participation in, decision-making rather than focusing on the assessment of aggregate outcomes for society; and providing norms for distributional choices and measuring efficiency in achieving redistributional objectives if human rights policies require them.

Mainstream economics and human rights: determining value judgments

In order to consider fully the debate between human rights proponents and economists, it is important to put economic decision-making and resource allocation in the context of welfare economic theory more broadly. Welfare economics is defined as the branch of economic theory concerned with the aggregate social utility of the members of society as a group and seeks to measure the extent to which the objectives of society as a whole are fulfilled. It recognizes that this is affected by the decisions of individual members and agencies and that it affects the distribution of the benefits and costs resulting from economic activity among members of society. Welfare economics therefore sheds light on the governance of public interest—such as the impact of human rights policy—by considering the impact of decisions made by governments as well as the governance of the entire economic system. Building on neo-classical utilitarianism, the basic Paretian value judgment has guided welfare economics as the measure of social utility. At its simplest, this value judgment holds that the welfare of society is increased if one person is made better off and no one is worse off.

Reflecting Sen’s concerns about welfarism—measuring outcomes exclusively by the social utilities generated—as the basis for economic development decision-making and the consequent incompatibility with human rights, human rights proponents and economists such as Seymour and Pincus (2008: 390–2) have recently revisited some of the basic premises of welfare theory which they believe still dominate the assessment of alternative public policies. This analysis of welfare theory and value judgments together with that of other human rights and economic commentators leads to an important conclusion that the perspectives of the two disciplines are actually complementary rather than incompatible.

In order to consider how human rights complement economics, three fundamental problems are identified in adopting the value judgments of mainstream welfare economics in assessing the economic effects of human rights policies:

• First, in practice, Paretian efficiency in welfare economics has come to mean satisfaction of the conditions of efficiency in production and exchange in competitive markets only. It usually ignores efficiency in distribution, which occurs when goods and services are allocated to those who have the greatest need for them. Thus, human rights proponents can correctly claim that the default position is that if people and businesses interact in competitive markets, then the most efficient outcome

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13 On this point and more generally for a thoughtful consideration of the tensions – both real and perceived—between utility maximization as a normative social welfare goal and the protection of socio-economic rights, see Harvey (2002: 364–471).
Second, since mainstream welfare economics is based on the Paretian value judgment, its findings on economic effects are relevant only if the objective implied by that value judgment is accepted. If human rights require some other belief of what is needed by an individual or group in society then a Pareto welfare economic analysis cannot be expected to imply policies that will achieve the social objectives of human rights proponents. Analytical welfare economics is still useful to predict the outcome and guide the selection of alternative policies; but the analysis of the best policy depends on the objective (or welfare function) set, and it must be accepted that this function consists essentially of value judgments. Human rights can help to set alternative value judgments and thus become an integral part of the convergence with welfare economic analysis. So, for example, human rights require that as a matter of priority minimum essential levels of socio-economic rights are realized for all (for an explanation see Doctrines in Annex 1), providing both a value judgment about choices on distribution and a means of measuring efficiency in achieving that distribution.

A third tension between welfare economic theory and human rights theory is on the role of compensation. Welfare economists admit solutions to the Paretian criterion under which winners could (hypothetically) compensate losers, leaving everyone at least as well off as they were before the policy change (Seymour and Pincus 2008: 391). As part of its commitment to the notions of accountability and remedies, international human rights law also foresees a place for compensation, including relief for a violation of human rights afforded a successful claimant via judicial and non-judicial proceedings. However a theory of compensation that would anticipate wrongs and consider them acceptable on the basis that compensation will (in principle) be forthcoming is anathema to the human rights approach. Human rights require compensatory justice in the event of a violation, but the occurrence of a violation is in the first instance unequivocally prohibited, rather than part of an inevitable and acceptable calculation of costs and benefits deemed annulled by remedial action. While the human rights approach allows for the prioritization of rights and recognizes that there can be permissible restrictions or limitations to the exercise of rights when accommodating competing interests, as outlined above in section 2.2.2, compensation as understood by the Paretian welfare criterion would seem to challenge some of the most important precepts of human rights law—that rights are fundamental to human dignity, universal in that they belong to everyone equally, and inalienable in that they should not be taken away, except in specific situations and according to due process.

In practice, economists have developed a wide range of techniques to measure the economic, social, environmental, and political costs and benefits of investments and policy changes which often overcome the market rigidity assumptions of mainstream economics—particularly in the development field. Similarly many development economists have focused on distributional consequences, have developed sophisticated ways to measure them, and have undertaken fieldwork to see whether distribution improves. Factoring human rights into this welfare analysis can add a vital dimension into investment planning and there is much empirical social science that examines whether human rights improve outcomes—including redistributional outcomes—suggesting that the overlaying of human rights on economic welfare analysis can provide a more relevant framework within which options can be tested and distributional consequences understood.

Human rights and mainstream economics: process versus consequentialism

Human rights proponents might question whether welfare economics loses sight of individuals by focusing on aggregate outcomes: it is argued that maximizing everybody’s utility in the manner of mainstream economics may be contradictory with guaranteeing their individual rights (Branco 2009: 5), notwithstanding that human rights and classical utilitarian economic approaches both draw from the enlightenment in that they “recognize individuals, not societies, tribes, or other entities, as the principal locus of moral value and meaning in the world” (Gauri 2004: 471). Borne of the same source, they also have a shared commitment to “a methodology that approaches social questions through the aggregation of

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14 “Progressive non-conformist economists outside of the mainstream … question whether it is possible to separate production and distribution. The process of production produces ‘winners’ who tend to resist any redistribution of their gains to those who are ‘losers’”: Balakrishnan and Elson (2008: 3).
15 For comprehensive coverage, see Shelton (2005).
individual circumstances” (Seymour and Pincus 2008: 388). The suggestion that “there is nothing inherent in economic theory that conflicts with normative concern for excluded groups, or with the development of new behavioural assumptions regarding women and ethnic groups” may provide a start to reconciling economics with a human rights approach (Gauri 2004: 472). Additionally, human rights, with its focus on the worth of every human being, are concerned with distribution in outcomes and not only averages and, as such, emphasize the need for disaggregated data among ethnic and religious minorities, women, the poor, and others (Gauri 2004: 471–2). While the development field is an example of economic and social policy, which often focuses on the collection of disaggregated empirical data rather than relying on often-unreliable, national macro-economic and social data, it does not always use this to measure distributional outcomes or consequences of policies.

Even where the conceptual individualistic, equilibrium commitments of this approach are extended by welfare economists to explaining and predicting the behavior of society as a whole, it still focuses on outcomes and is therefore primarily concerned with consequences (the view that alternatives must be judged according to the outcomes they generate) and orientated toward aggregation. Reddy explains that economists usually measure economic decisions by reference to the subjective preference satisfaction, or utility, experienced by individual persons, often being “revealed” by their market choices and measured in monetary terms. Thus, this mainstream approach within the economics discipline is that “alternative policies should be assessed in relation to their impact on individual and aggregate utility, normally defined as preferences” (Reddy 2011: 66). It uses revealed preferences—especially the choices individuals make in their market behavior—as a proxy for individual welfare because it has no way of assessing individual welfare more directly (Harvey 2002: 421–2). While positive, or analytical, welfare economics has enabled prediction of the outcome for society resulting from alternative policies (and does so mainly by disaggregating the marginal impact on individuals or groups in society), the focus of the assessment is of the aggregate outcome for society rather than the process by which it is achieved. Thus a cost-benefit analysis consists of an enumeration and evaluation of the consequences for individuals or groups of a particular policy or investment but is expressed in terms of a single net compensation-principle outcome that if the aggregate benefits exceed the aggregate costs—so gainers could compensate losers—then the policy or investment would yield a net increase in welfare.

Whereas economists “reject prior reference to rules and norms in favour of rank ordering of market or social outcomes,” from the perspective of human rights, “actions and choices should be judged on the basis of adherence to particular rules or norms, rather than their outcomes” (Seymour and Pincus 2008). To be sure, outcomes matter to human rights, while obligations of conduct tend to be more exacting international human rights law imposes also obligations of result (see Annex 1 on Doctrines). This highlights a tension with the consequentialism of welfare economics whereby, as Sen (1995: 13) points out:

The violation or fulfilment of basic liberties or rights tends to be ignored in traditional utilitarian welfare economics not just because of its consequentialist focus, but in particular because of its “welfarism,” whereby consequent states of affairs are judged exclusively by the utilities generated in the respective states. [He concludes that] while processes may end up getting some indirect attention insofar as they influence people’s utilities, nevertheless no direct and basic importance is attached in the utilitarian framework to rights and liberties in the evaluation of states of affairs.

The human rights tension with the consequentialism of welfare economics is on the basis that process matters; as such, some actions are inherently wrong even if they result in desirable outcomes.16

The premium that human rights place on just processes is closely linked to participation rights—that people should be able to influence decisions, in particular those that affect them. This would require, among other rights, the right to receive and impart information.17 For example, demands for transparent budgeting and the allocation of resources are consistent with the right to information (Hunt and others 2004: 2). It would include freedom of assembly that enables people to meet without threat and to enjoy an elementary level of economic security and well-being—the right to a reasonable standard of living and associated rights (Hunt and others 2004: 19). There is information available on how to translate participation rights into the practice of economists and what would give effect to a deep participatory approach,

16 On the latter point, see Seymour and Pincus (2008: 398).
17 For further information see, Human Rights Committee (HRC), General Comment No. 34 on Freedoms of Opinion and Expression, UN Doc. CCPR/C/GC/34 (2011), para 3: “Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights.”
including “a shift towards more equitable power balance between service providers and users”. In his thoughtful analysis on economic and human rights approaches for the delivery of health and education services, Gauri (2004: 471) remarks in this regard that:

…the economic approach views those processes instrumentally: they could in principle be reconciled with authoritarian styles in medicine and school governance if those lowered mortality and raised literacy.¹⁹

Human rights, as Uvin (2004: 139) highlights, requires that:

…the functioning of any system, including a market-based one, is subject to the judgment and limitations that come from the fact that all human beings have inalienable human rights. It argues that processes of accountability, participation, inclusion, justice, and social guarantees have to underlie both the market and the state….²⁰

In short, “the human rights approach attaches as much importance to the processes which enable developmental goals to be achieved as to the goals themselves” (Hunt and others 2005: 5).

As described above, the importance of participation in economic decision-making demonstrates how civil and political rights and socio-economic rights are mutually supportive, and why human rights recognize them to be interrelated, indivisible, and interdependent. The World Bank might be said to have accepted a similar approach; the Bank has recognized as a matter of policy that the political prohibition in its Articles of Agreement does not preclude it from addressing corruption in partner countries. As noted recently by a Bank Managing Director, political issues can matter to economic decision-making demonstrates how civil and economic rights approaches by arguing that the scenario just described would not favor redistribution. Some human rights proponents have had concerns with the approach among the development community, which tends to overvalue efficiency in production and exchange—that is, those activities (or rights) that will have the highest pay-off or will bring about the highest rate of economic growth—and ignores distributive efficiency, or even “almost always disfavoring redistribution” (Uvin 2004: 191–20). The fact that efficiency has come to be measured in terms of outputs in goods and services and distribution is now usually considered separately has reinforced the view among some that economics should focus on efficiency and growth alone and that distribution should be left to actors within the political domain (Stiglitz 2008: 47; Branco 2009: 18).

Criticism from within the discipline for this bifurcated approach notwithstanding, efficiency in production and exchange—if distributational efficiency is ignored—would allow, for example, the unequal allocation of resources and the exclusion of individuals from the distribution of resources when limited by tight budget constraints (Branco 2009: 18). Some free-market advocates might take the position that income inequality provides incentives for effort and entrepreneurship and thereby spurs efficiency and productivity, the gains from which will allegedly trickle down and are helpful for the living standards of the poor over time (Wade 2008: 401). These views sit in contrast with that of human rights, which are concerned with the plight of the poor and disadvantaged and as such would seem to endorse significant national and international redistribution of incomes (Uvin 2004: 191). Whereas it is the state’s function, and its duty under human rights law, to promote equity and inclusion

Mainstream economics and human rights: the place of distribution and redistribution

It is important to recognize that satisfaction of the conditions of Paretian efficiency in production and exchange still does not imply that a particular decision or policy is the best attainable from an economic welfare standpoint. True Paretian efficiency also requires efficiency in distribution whereby aggregate social utility is also at an optimum. This is achieved when goods and services are allocated to those who derive the greatest utility from them (or, to put alternatively, have the greatest need for them), and there is no redistribution that would improve one individual’s position without worsening that of another. The key to the complementarity between human rights policy and economic development is therefore an understanding of the economics of distribution and the impact on resource allocation of redistributive policies.

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²⁰Notably, Gauri’s point here is to reconcile economic and human rights approaches by arguing that the scenario just described would in fact go against the thrust of microeconomic theory which is to expand consumer choice, and that “contemporary accounts of service delivery endorse reducing information asymmetries among principals and agents.” He concludes by stating that: “[T]he processes of service delivery are critical in the economic approach, even if they do not have intrinsic value.

in the allocation of resources, some economists understand this type of state intervention as an interference with the optimal functioning of the market and seek to minimize its role. Efficiency is itself a value and can be rejected in the name of other ideals such as fairness (Tabb 2004: 337); even if an economist embraces market principles of economic freedom and free competition, there is more than one way of translating them into concrete policy proposals (Lang 2008). Thus most government and international development economic policy now embraces the concept of market failure—particularly in dealing with externalities of production and exchange—in policy areas such as climate change and environmental protection.

Notably, the twin principles of equality and non-discrimination are among the most fundamental elements of international human rights law. As Hunt, Nowak, and Osmani (2004) point out, recognition of these principles helps to highlight the fact that poverty often originates from discriminatory practices, both overt and covert. In the latter case, it is therefore important to look at the effects, and not only the intentions, of measures, laws, and policies:

Whereas poverty might have been regarded in earlier times as a kind of ‘natural phenomenon’, today it is looked upon as a social phenomenon aggravated by discrimination, which in turn requires corresponding anti-discrimination or even affirmative action by Governments (OHCHR 2005: 44–45).

To understand equity as equality of opportunity and fairness then one needs first to recognize the roles that discrimination and inequality play in undermining fair processes. Mainstream economics, for its part, often contends that perfect competition would achieve optimum welfare if the initial distribution of factor endowments is considered equitable. If two groups of persons have different initial factor endowments, their relative output and incomes will depend on the amount and productivity of the factors held by those groups. Thus, the common economic premise that the individual is entitled to personal freedom, private property rights, and the fruits of their own labor is actually a value judgment defining the equity of the resulting distribution of income/output. The consequence of a welfare function in this form is that an individual or group is entitled to a certain share of total income because they own certain factors of production. Alternatively, equity can be considered to be an attribute of the resulting distribution of income rather than the initial factor ownership; but the outcome is the same, and neither is determined on the basis of whether there is equality of outcome. Moreover, the problem cannot be reduced to a matter of determining the most desirable pattern of distribution of a given aggregate income because economists have also shown that the manner of its distribution will probably affect the total amount to be distributed. Once again, the question here is not what the facts may be concerning the relationship between equity and output but how to determine a proper balance between them through a welfare value judgment and, ultimately, whether outcomes can reasonably be considered as equal.

When the power to make these value judgments, including equity principles such as non-discrimination or equality between individuals or groups, is claimed through a process of government or national/international law, then a resulting distribution of income/output is implied. Therefore one of the first requests that the economist might make of human rights is a criterion for making interpersonal comparisons or making judgments of policy that involves the distribution of income.

There is in fact evidence that separating out of efficiency and distribution no longer represents conventional economic wisdom in the economic development community; and since many, if not most, development policies and programs have redistributive objectives, they will be monitored and evaluated in economic terms on these objectives (if these are specified) and on their distributional impacts. A clearer recognition and specification of human rights in distributional objectives and the use of appropriate analytical economic tools to measure distributive impacts can actually support the strengthening of human rights issues within economic development. Human rights indicators may be one important way to measure human rights realization, both qualitatively and quantitatively and to bring together the normativity of international legal obligation with the practicality of empirical data (McInerney-Lankford and Sano 2010: 14).

2.4 Conclusions to Part 1

There are a number of ways one might frame the relationship between human rights and mainstream economics. Some commentators see them as fundamentally irreconcilable. Branco (2009: 134) concludes in this regard:

11 Sagoff (1981: 1393) eloquently states it is legitimate also to prioritize other values over efficiency; he writes: “Economists as a rule do recognize one other value, namely justice or equality, and they speak, therefore, of a ‘trade-off’ between efficiency and equality. They do not speak, as they should, however, about the trade-off between efficiency and our aesthetic and moral values. What about the trade-off between efficiency and self-respect, efficiency and the magnificence of our natural heritage, efficiency and quality of life?”
Despite the controversy that such a statement will most probably cause amongst the majority of economists, [this book has] demonstrated that, since its origin, mainstream economics discourse has regarded human rights as an institution competing with economic efficiency rather than an instrument complementing economics in promoting human welfare.

Others highlight areas of convergence between human rights and this branch of economics. Brahmbhatt and Canuto suggest that the emphasis of human rights on every individual has been matched by a shift in development attention from a predominant interest in aggregate measures (such as GDP or average per capita income) to a consideration of outcomes for specific groups and households. This observation leads these World Bank economists to remark that development practitioners are “thinking about winners and losers” (Brahmbhatt and Canuto 2011). The second area of convergence they identify comes from the growing emphasis in development practice on participation, consultation, and accountability, principles central also to human rights law. In his study on healthcare and education, Gauri, also of the World Bank, concludes that convergence can be found between rights orientation and an economic approach in that they prescribe similar methods for service delivery in healthcare and education in developing countries.22

Seymour and Pincus (2008: 404) focus instead on the complementarity between human rights and mainstream economists. While alive to the ideological and normative differences, they conclude that the approaches are complementary because of their dissimilarities and point to ways in which, at the level of practice, human rights and economics compensate for the limits of the other. A particular contribution that economics is said to bring to human rights is in the assessment of trade-offs since a human rights-based approach may not offer a finely tuned metric for making choices in the allocation of resources (Gauri 2004: 472; Reddy 2011: 67–8; Brahmbhatt and Canuto 2011: 2).

Part 1 of this report has sought to draw attention to how human rights, including notably the content of international human rights law, can complement mainstream economics. Importantly, its standards, principles, and doctrines can help set value judgments that underpin the very objectives of development.

In demonstrating the potential for complementarity based on what human rights might bring to development economics, this research emphasizes the importance of understanding the consequences for economic distribution, including the following:

- **Need to focus on distribution outcomes** (in economic terms, on the distribution function and not just production and exchange functions) and put these at the center of economic development policies and value judgments. Human rights focus on the worth of every human being and are concerned with distribution in outcomes.
- **Putting people at the center of economic development**, focusing on disaggregated/marginal distribution outcomes rather than aggregate/average outcomes and highlighting the need for disaggregated data. This would supplement existing approaches, maximizing the utility of society as a whole in the manner of mainstream economics to align with the human rights objective of guaranteeing individual rights as well as prioritizing the rights of the most marginalized groups.
- **Need for clearer prioritization of human rights in economic policy and decision-making** that recognizes their pre-eminent value and one against which the merit of other values are to be justified. Developing a test adapted from that applied in international human rights law to determine any permissible restrictions of rights could be useful.
- **Offer a clearer definition of ‘efficiency’ to include distributional equity as ‘efficient’ when meeting economic policy objectives**, which explicitly include realizing human rights standards. Human rights are concerned with the plight of the poor and disadvantaged and as such would seem to endorse significant national and international redistribution of incomes.
- **Need for new explicit welfare economic norms and value judgments built around distributional equity and redistribution goals that reflect human rights objectives**. These value judgments include:
  - Prioritizing minimum essential levels of socio-economic rights for all;
  - An equal distribution of the means to realize socioeconomic rights necessary for a dignified life, except where an unequal redistribution is to the benefit of targeted disadvantaged members of society;
  - The presumption that there will be no retrogression of rights, and as such an avoidance of non-redistributive resource allocation against certain groups; and

22 Both are concerned with participation, empowerment, transparency, and accountability in service delivery as important for ensuring quality healthcare and education (human rights) and (to ensure efficiencies in publicly provided services)—(Gauri 2004: 470–2).
— A definition of ‘compensation’ that requires remedial justice in the event of a violation but rejects the notion of a calculation of costs deemed annulled by (hypothetical) remedial action.

• Need for a framework for, and prioritization of, human rights insights, which will facilitate the use of economic analysis techniques to assess the impact of human rights objectives on alternative distributional objectives.

• Emphasize the importance of freedoms in preventing elite capture and allowing for societal actors to debate and negotiate the future of societal strategies.

Reflecting the conceptual debate in Part 1 of the study, Part 2 sets that debate in a framework that describes how human rights are understood by development practitioners and economists and the extent to which human rights have influenced economic policy. The chapter addresses three areas where complementarity or convergence between human rights and development economics and policy are spelled out: First, in what way do human rights contribute to country economic policy in general? In which sectors do human rights become important? How does it relate to distributional policy? Second, focusing on equity as a particular dimension of economic policy, in what way are human rights important in framing equity policies in the developing world and what can be learned from the emphasis on equity, equality, and non-discrimination? Third, it looks at governance policies as an area where overlaps and complementarity are particularly prominent. The analysis is not exhaustive but seeks to provide examples of integrative fields in order to gain a deeper understanding on the nature of complementarity and, eventually, the relative strength of human rights doctrines in influencing economic policy in development.

3.1 Human Rights Integration and Influence on Country Economic Policies and Programs

The debate about human rights and development is a relatively new interdisciplinary field that emerged in the 1990s. The discourse has evolved since that recent beginning, and there is now stronger focus on social rights fulfillment. Human rights principles are often embedded in donors’ work on governance. However, methodological obstacles to the integration of human rights in development (in general) and economic policy (in particular) remain (McInerney-Lankford and Sano 2010). The 2006 World Development Report on Equity and Development presented evidence that greater equity can lead to more efficient resource allocation in the context of development. As Seymour and Pincus (2008: 387) point out, the combination of positive economics and a human rights normative framework can provide an answer to the problem of achieving equity and efficiency in the provision of basic services. McKay and Vizard (2005) argue the perception that human rights and economics are incompatible and conflicting is often a matter of “language” and “approach”.

Entry points for integrating human rights can be motivated by a range of factors. Alsop points out that a top-down legal framework, such as a human rights framework, may provide an important normative basis on which to claim rights in practice (Alsop 2005). Of course, both economic, social, and cultural rights; and civil and political rights bind the vast majority of states as a matter of international law and, in many cases, as a matter of domestic law, too. Part 1 discusses several reasons how human rights inform economic decision-making, including their potential contribution to setting the important value judgments that welfare economic analysis of policy choices and priorities requires; examining the process of and participation in decision-making rather than focusing on the assessment of aggregate outcomes for
society; and providing norms for distributional choices and measuring efficiency in achieving redistributional objectives if human rights policies require them.

Countries that achieved rapid but highly unequal growth have actually experienced limited impact on poverty reduction and instead an increase in income inequalities (Goh and others 2009; Lin 2003). Providing a legal basis that recognizes that redistribution by incorporating it into a wide range of agreements and policy is vital to the integration of human rights into economic policy. For example, Article 2(1) of the International Covenant on Economic, Social, and Cultural Rights already provides a legal basis as it requires state parties “… to take steps…with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”23 In an example of the right to water and sanitation, its legal basis was set out in the 2004 report of the UN Sub-Commission on the Promotion and Protection of Human Rights Special Rapporteur on the Right to Drinking Water Supply and Sanitation and the 2007 Report of the UN High Commissioner for Human Rights.24

Redistribution requires setting value judgments about which groups policy-makers are redistributing to; and, as presented in Part 1, human rights can provide the framework. By setting alternative value judgments, human rights can become an integral part of the convergence with welfare economic analysis. Further, human rights reorient the focus of assessment from the aggregate outcome for society to the process by which it is achieved, and for whom. Development policies, country programs, and sector programs and projects often adopt concepts and principles that reflect human rights priorities, such as non-discrimination, participation, transparency, and accountability; but a careful consideration of how they have been developed and interpreted within international human rights law might offer some precision and focus. Part 1 expanded upon the content of the human rights normative framework for these purposes.

**Laws, policies and programs**

At the country level there are several examples where human rights influence economic policy and where policies were explicitly framed as human rights. In Brazil, Chile, Colombia, Costa Rica, and Peru, the rights to health and education have been incorporated directly into their respective Constitutions and have influenced overall economic policies. Similarly in India, the National Rural Employment Guarantee Scheme, which offers up to 100 days of employment per rural household per year on public works at the prevailing minimum unskilled wage rate, has influenced economic development and poverty reduction.

In Mexico, poverty is broadly defined (i.e., well-being and social welfare) and is recognized in the Constitution. In Bolivia, the state must guarantee total provision of basic services and needs such as water, food, energy, and telecommunications, which are considered fundamental human rights (Ballivián 2010). In India, the 1966 CESCR and an activist judiciary have explicitly influenced the rights to work and education. In Bhutan, the Government in an attempt to measure happiness among citizens, promoted the development of the so-called Gross National Happiness, which covers the domains of psychological well being, health, time use, education, culture, good governance, ecology, community vitality, and living standards.25

The examples highlighted above reflect how human rights and human development concerns have made their way into legislation and broad countrywide policy objectives. The following discussion looks more carefully at how human rights have informed economic considerations and seemed to have influenced outcomes. Notably, human rights requirements are often not framed in policies and programs as human rights per se; but, rather, they may be consistent with human rights values, principles, and precepts or, more generally, have been influenced by the human rights debate. The following Case Studies 1–4 present ways in which human rights may have influenced economic decision-making. Specifically, Case Study 1 illustrates policies where the right to education is implemented.

Case Study 2 focuses on voluntary guidelines adopted by the private sector in their effort to adapt to emerging norms around the roles of the private sector, and to address reputational risks.

In Case Study 3, legislation is seeking to redress discriminatory norms and rights around land.

The UNDP Human Development Report of 2009 gives an account of migration in the context of demographic changes and trends in both growth and inequality.26 The report provides evidence about the positive impacts of migration...
on human development, through household incomes and improved access to education and health services and how migration can empower traditionally disadvantaged groups—in particular, women. It also provides evidence of some of the negative impact on migration if not managed or guided carefully. Other donors such as DFID, the EU, and the World Bank have reached similar conclusions that suggest migration can be a powerful driver of development for migrants, their families, and their communities and country of origin: and it is widely recognized that the social costs of migration

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**Case Study 1: Tackling child labor to improve access to education**

In Mexico, the PROGRESA program (now called Oportunidades) focused on child labor and access to education. This government policy aims to change the structure of incentives and constraints affecting child labor. The program indicates how changes in social and economic practices driven by human rights concerns can also make an important contribution to economic development. Child labor is linked to an inter-generational loss of potential income, as children’s low human capital valuation now will reduce their productivity in the future. The International Labor Organization (ILO) estimates that current levels of child labor will result in US$5 trillion loss of income between 2000 and 2020 (internationally).

Source: Betcherman and others (2005).

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**Case Study 2: Creating value in the private sector through the United Nations Global Compact**

Businesses and non-business entities, by joining the United Nations’ Global Compact, commit themselves to align their operations and strategies with 10 universally accepted principles in the areas of human rights, labor, environment, and anti-corruption. With regards to human rights, there are two principles: Principle 1, Businesses should support and respect the protection of internationally proclaimed human rights; and Principle 2, make sure that they are not complicit in human rights abuses.a Just as the City of Melbourne did in 2003, other cities have joined the Compact and made human rights part of the city’s vision.b

In 2007, New Look, a UK-based fashion retailer, engaged with its major Bangladeshi garment supplier Echo Sourcing Ltd on an initiative aimed to raise wages and lower working hours for more than 2,000 workers. Other benefits for the employees included additional medical care, child-care facilities, improved daily hot meals, and an incentive and bonus scheme. As a result, New Look increased its productivity; while in the first year, the lowest-grade wages increased by 24 percent and overtime rates dropped 46 percent. New Look is now planning to engage more extensively with its suppliers on ethical trade and is looking to replicate the initiative in Turkey, Moldova, Vietnam, and India.c

Professor John Ruggie, Special Representative of the UN Secretary General on human rights and transnational corporations and other business enterprises, presented his “protect, respect and remedy” framework during 2008, laying the foundations of a system for better managing business and human rights challenges. This framework has gained significant legitimacy among business corporations and civil society actors and has contributed to integration of human rights concerns in private sector policies and guidelines.d

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a http://www.unglobalcompact.org/.
b Handmer (2001).
c http://human-rights.unglobalcompact.org/case_studies/living-wage/
can be very high and can outweigh the benefits. The social costs relate to victims of labor exploitation, victims of sexual exploitation and human trafficking, the consequences of long separation between family members, school dropout among the migrants’ children, and health risks.

Case Study 4 relates to integration of human rights in migration policies. The focus of the example is both on the potential of integrating human rights and on its significance in the migration policies of the Philippines. Since the 1970s in the Philippines, migration policies have been integrated into national policy to address pressing domestic unemployment and balance-of-payments issues.

While the Philippine case study gives evidence of an innovative and comprehensive migration approach, where considering both financial benefits and social costs leads to GDP growth, human rights add value through an international

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**Case Study 3: Legislation to recognize women land rights**

Land reforms in Colombia and Costa Rica were undertaken in a way that improved women’s ownership of land. If the gender-specific impact of changing property regimes is ignored, the promotion of land rights from an economic perspective may well undermine economic, social, and cultural rights and the human development of women in developing countries. Philip Alston and Mary Robinson have pointed out that women’s access to land enhances their human development and that of the country in which they live: “women who own the land they work have greater incentives to raise their productivity, and women who earn more income are more likely than men to invest in the household and their children’s education and nutrition”.


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**Case Study 4: Migration in the Philippines: Human rights as a necessary parameter for economic development**

Since the 1970s, the Philippines Government has worked with migration policies to address high unemployment and balance of payments. Today the Philippines ranks as the third largest source of international migrants, after China and India. According to the Commission on Filipinos Overseas, almost 10 percent of the population was working and/or residing in nearly 200 countries and territories in 2009. The Philippines is the fourth-largest recipient of remittance flows after India, China, and Mexico (World Bank 2010). In 2010, financial remittances reached US$21.3 billion; a 23 percent growth compared to US$17.3 billion in 2009, or 11 percent of GDP. Yet, the full gains of migration in the Philippines remain high. The Philippines with support from the EU is currently exploring how to better integrate international migration into social and economic development policy, planning, and programming with a stronger local ownership. Access to information, securing migrants rights, and equality are regarded as fundamental in this strategy.
legal framework to migrant workers and their dependents. Under the International Convention on the Protection of the Rights to the Migrant Workers and Members of their Families (ICRMW more than 190 million voluntary economic migrants are protected by international law. Human rights also require that people are considered as ends unto themselves and not mere means to ends, such as drivers of development or trade. Moreover, human rights indicators can measure the risks and social costs and provide clear guidance in periodization and possible trade-offs.

**Distributional policies and human rights**

Prasad (2008) notices the “pursuit of social justice as an ethical imperative, or to achieve efficiency with equity in order to promote economic growth” can be achieved through redistribution. Redistribution can be achieved through taxation, social transfers, or social expenditure or investment in social services, like education or health. Generally, tax policy and minimum wage legislation are common examples of this, but there are no examples of fiscal or macro-economic management policy guided by human rights. This section considers the rationale and outcome of inclusion of human rights in terms of country growth, unemployment, distribution of income, assets, and natural resources.

Free markets and return-driven investment characterize most resource allocation in both industrialized and developing economies. Although markets require freedom to function effectively, they underperform in the presence of externalities (the un-priced consequences of, for example, pollution, corruption, and human rights abuses), informational gaps, and asymmetries. Moreover, markets are expected to achieve economic and social efficiency, but there is often a trade-off between efficiency and equity. And, as suggested in Part 1, it is the distribution of the ownership or control of the production factors and the working of the market that will define the resulting distribution of income. As a result, in Mexico and Chile, the top 10 percent earn on average 27 times more than the bottom 10 percent; in Israel, Turkey, and the United States, the ratio is 14 to 1 while in the Nordic and many European countries it is much lower than the 9 to 1 OECD average ratio. In Argentina, Brazil, China, India, Indonesia, Russia, and South Africa, which form the group of the world’s largest emerging economies, the level of income inequality are significantly higher than the OECD average (OECD 2011a).

Human rights are concerned with non-discrimination and equality and, as such, whether the initial distribution of factor endowments allowing for ownership or control of the factors of production can be considered equitable. In terms of the distribution of outcomes, human rights prioritize the realization of the minimum essential levels of socio-economic rights for all. Furthermore, as explained in section 2, a human rights approach to compensatory justice and a right to a remedy would challenge the idea that inequality in outcome is acceptable as long as the winners could (hypothetically) compensate the losers. Redistributive social policies require more direct intervention in the market and might include targeted subsidies toward basic services and commodities for the poorest. Although such an economic policy reflects economic, social, and cultural rights, economists have not seen these links being made as explicit human rights objectives in economic development policies; and little consideration has been given on what it might add to do so. This could include, for example, focusing on minimum essential levels of right for all as a policy priority and the strong presumption that measures leading to retrogression in the exercise of rights are not permitted.

Redistributive social policies have always been points of criticism by those who believe that a social perspective adopted by policymakers threatens economic growth and therefore development (Mkandawire 2001). During past decades, the emphasis of development policies leaned toward poverty reduction strategies; however, the benefits of growth often did not reach the poor. As Dagdeviran, Hoeven, and Weeks state “growth alone is a rather blunt instrument for poverty reduction, since…it is distribution neutral”. A human rights framework introduces a combination of “distributional concerns” along with “priority on poverty reduction”, in order to better ensure “both growth and equity” (Dagdeviran and others 2001). The importance lies in combining a legal and social strategy, that is, where legal regulation is combined with either social mobilization or with social pressure and monitoring. Given such measures, impacts on poverty reduction seem feasible, but yet dependent on the context and on the strength-prevalent culture and values.

Thus, the adoption of pro-poor macroeconomic policy is more likely to lead to programs that reach the poorest and most marginalized groups. Pro-poor growth frameworks may include a range of instruments such as taxation for redistribution, as well as social transfers and subsidies. These instruments can have a direct positive impact on the poor and excluded groups (Kabeer 2010). In 2006, DAC ministers and heads of development agencies endorsed the OECD policy guidance *Promoting Pro Poor Growth: Policy Guidance for Donors*, which defines pro-poor growth as a “pace and pattern of growth that enhances the ability of poor women and men to participate in, contribute to and benefit from growth”
Moreover, the policy guidance identifies key priorities of pro-poor growth, which include engagement and participation of the poor, distributional objectives, addressing discrimination, and the accountability and transparency of the state (Foresti and others 2010). Foresti, Higgins, and Sharma (2010) identify operational entry points for integrating human rights and pro-poor growth. These include (a) employment policies and labor rights; (b) land and property rights; (c) gender and women’s contribution to labor markets, as exemplified in Case Study 5; (d) fiscal policies; (e) social protection and food policies; and (f) governance.

The redistributive social policy implemented in Mauritius is discussed in Case Study 6 and shows that redistribution and economic growth objectives do not need to compete.

Barriers to the integration of human rights

Although it is easier to identify sectoral examples for human rights integration, there are difficulties when scaling-up to the country level. Analysis of the effect of inequality on economic growth at the country level would almost always be based on analyses of cross-country data. However, Banerjee and Duflo (2003) stated the following warning:

…against the automatic use of linear models in settings where the theory does not necessarily predict a linear or even a monotonic relationship. On the more fundamental question of whether inequality is bad for growth, [their] data has little to say. It is clear that the most compelling evidence on this point has to come from micro data.

A related point is that even if inequality were good for growth, it does not mean that it should be condoned. Human development and not merely growth has become the focus of progressive thinking in this area. As such, in order to confront directly the widespread non-fulfillment of human rights and the development objective of improving
the living conditions of people, it has been argued that any growth that occurs needs do so as a by-product of that goal (Patnaik 2010; Townsend 2007).

The practice of bringing human rights into economic policy-making requires greater exploration, as does the more difficult question as to whether human rights contributes to economic growth. There are indications that it does, but it is not the only or indeed the central question, not least because human rights have different aims.

While some economists may focus on outcomes, some human rights lawyers may tend to place a premium on process. As a result, the decisions as to the allocation of social policy resources can be challenged from a human rights perspective.

In order to address this issue, the Office of the Human Rights Commissioner for Human Rights (OHCHR) developed human rights indicators as a necessary step toward measurement, not only in relation to states compliance with human rights but also in relation to measuring human rights program and project processes and outcomes (McInerney-Lankford and Sano 2010). As McInerney-Lankford and Sano point out, indicators are important because they link the normative level of international legal frameworks with empirical evidence from implementation practices.

At the same time, although legal scholars are debating options to improve human rights integration and/or mainstreaming into policy, a significant expansion of the legal basis may have legal and political challenges (Roling and Koenen 2010). Anderson and Foresti (2009) point out that there are legal and structural constraints to the integration of human rights related to national legislation, such as challenges in the implementation of human rights in national legislation (compliance) and challenges related to access to justice and cost implications.

This is further complicated because international donors are often reluctant to enforce compliance of human rights; the donors assert that human rights are inherently political and therefore outside their mandate (McInerney-Lankford 2009). This also reveals that ignorance of the human rights framework among development economists hampers the implementation of human rights-focused strategy. And although donors emphasize the importance of access to justice through their governance work, the poorest and the

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**Case Study 6: Redistributive polices and economic development in Mauritius**

The Republic of Mauritius is an African island nation located in the southwest Indian Ocean, with a multi-ethnic population of 1.3 million people. It is a small state characterized by high economic and high social performance (UNRISD 2007). The Mauritians have always promoted the idea of social equity. Razavi and Pearson (2005) point out that the Mauritius Government constructed an inclusive social welfare state for all its citizens. The Government always encouraged economic growth along with improvement of the standard of living.

The average annual GDP growth rate for the Mauritius economy from 1980 to 2006 was 4.1 percent, a percentage that is higher than all other developing countries. From 1990 to 2007 the average annual increase in the employment rate was 2 percent. Government expenditure during the last decades was stable at 25 to 26 percent of GDP. However, a reallocation of these expenditures toward social services and social transfers was observed (social transfers from 6.1 percent of GDP in the mid-1980s climbed to 9.3 percent in the 2003–04) (Prasad 2008). Social policy is financed by Government’s tax revenue. Moreover, tax rates are progressive while low-income citizens do not pay taxes (Brautigam 1997; Prasad 2008). The most significant outcome is the reduction in the proportion of poor households from 19.5 percent in 1986 to 8 percent in 2006.\(^a\)

The above example clearly challenges the argument that redistributive social policy necessarily threatens economic growth. The Mauritius Government in the last decades implemented a redistributive social policy without negative impacts on economic growth. Further, Mauritius ranks overall first in the 2011 Ibrahim Index, second on Participation and Human Rights, and first on Safety and Rule of Law.\(^b\)


\(^b\) Established in 2007 in collaboration with Harvard University, the Ibrahim Index is collection of quantitative data that provides an annual assessment of governance performance in every African country.
most marginalized populations often have no access to formal legal structures (Banik 2007). As discussed in section 3.3, it is the elites and perhaps the middle classes who are most likely to go to court. Empowering the most vulnerable population is challenging but crucial for reducing poverty and sustaining development interventions.

Concluding remarks on integration and influence

It is easier to identify conceptual connections and the basis for convergences between human rights and mainstream economics than to develop a framework to integrate human rights in policy and decision-making, or to demonstrate that human rights lead to growth. The latter point continues to fuel the debate, yet it is likely that economic policies have not been explicitly rights based but have been influenced by human development as well as by human rights norms and objectives, the convergence of which has created more people-centered development. It is increasingly a route to ensure that people are at the center of development objectives—both through the process of development and in the outcomes—and that it leads to more dignified lives. Human rights can also add value when it comes to the quality of economic growth, and specifically the distribution of growth within a society.

As such, human rights should not be seen as a negative factor in the business of stimulating economic development and growth but rather as a framework for economic development that can inform economic policy and guide social welfare on aspects related, in particular, to equity. This review of policies along with examples has shown that human rights have been integrated in social and gender policies; in migration policy, with regards to land rights; and in creating new perspectives and operational guidelines for how the private sector interacts with surrounding communities and the societies in which they operate.

3.2 Equality, Equity, and Non-discrimination in Country Policymaking and Decisions

Equity was discussed in section 3.1 in terms of redistribution policies and distributional outcomes. Equity can be understood as the application of fair and non-discriminatory approaches that leave room for individual discretion on what is perceived as a just and equitable outcome. Equity and discrimination are important when seeking to achieve equitable outcomes from redistribution policies. Equal treatment, as an aspect of equality, is not equivalent to identical treatment. To realize full and effective equality, it is often necessary to treat people differently according to their different circumstances, to assert their equal worth, and to enhance their capabilities to participate in society as equals (Petrova 2011).

This section focuses on examples of national policies that seek to improve equity, remove discrimination, and impact positively on economic growth. As discussed in Part 1, just processes, non-discrimination, and equality figure prominently. The following subsections present examples of the successful integration of equitable approaches into national policies and donor-supported programs in the fields of gender and citizenship.

Gender equality and women’s human rights

Gender equality can be seen as a form of redistribution where power and resources are distributed equally rather than being held disproportionately by one sex. Gender equality is a basic human right; the “equal rights of men and women” are mentioned in the preamble to the UN Charter, and again under Article 1.2 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN in 1979, has been by ratified by 188 states and offers detailed provisions on the elimination of inequalities between men and women, considerable reservations notwithstanding. Yet, a core weakness of CEDAW—and arguably quite contradictory to the Vienna Human Rights Declaration of 1993 article 19 on non-discrimination—is the possibility for trade-offs, allowing states to file reservations to CEDAW articles at the onset of ratification.

The 2012 World Development Report on Gender Equality makes links between market growth and gender equality (World Bank 2012). In particular, it shows how growth in markets assisted by policy can improve gender equality if mediated through households. A rights-based approach, which builds the demand for equality within households that are then empowered by increased access to rights and resources, can assist in improving gender equality. Gender equality acts as an economic driver: equal access to education for girls and boys and greater employment of women not only increases productivity but creates new wealth and consumer demand within the domestic economy. Moreover, it is fair. As World Bank President Robert Zoellick contends: “Eliminating discrimination could increase worker productivity by 25 percent.... No country can afford to overlook 50 percent [of the workforce].”28

In addition to this strong economic argument, the fact that women own only 1 percent of the world’s wealth makes the moral case for gender equality. The moral case to improve gender equality and the economic case should be very much on equal footing with each other.

The example in Case Study 7 of the Benazir Income Support Program is not explicitly rights based but, in its design and implementation, improves gender equality, health, education, and livelihoods for some of the poorest women and families in Pakistan. This shows how a cash transfer which is essentially an economic intervention can help realize the rights of women, particularly when supported by education and training.

Effective processes are a key feature of a human rights approach; efforts at advancing gender equality can be met with cultural resistance particularly where the notion of rights is viewed as a Western imposition. Case Study 8 shows how local NGOs use a carefully considered process to meet and help adolescent girls who typically by post-puberty can become isolated from any development interventions. This example in Northern Nigeria, uses local networks and culturally sensitive approaches to ensure that the views of adolescent girls are promoted.

Policy to promote gender equality are both redistributive in terms of power and resources and are supported by a clear framework of international law. Gender equality can also be measured clearly by disaggregating all country level data by sex. Donors (Danida and Sida, for example) and some

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**Case Study 7: Benazir income support program**

A cash payment of 1,000 rupees per month is given to women in the poorest households. Educational and vocational training are also provided for women with the intention of developing sustainable livelihoods. Granting cash payments to women is more likely to enhance outcomes for their children such as improved health care and education.

The program has boosted the economic and social rights of women and, in turn, their children and families. In addition, women’s civil and political rights have been realized since the program has resulted in previously unregistered women being registered; this inclusion in society could add significant long-term benefits to them, most notably the ability to vote but also the ability to access other forms of state or donor support that will be delivered through the Benazir Income Support Program and its successor programs.

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**Case Study 8: Engaging adolescent girls in Northern Nigeria**

In Northern Nigeria traditional and religious rulers had been suspicious of donors’ efforts to engage with adolescent girls through sports, recreational, or employment activities. Youth Society for the Prevention of Infectious Diseases and Social Vices (YoSPIS), a local NGO, takes a different approach by recruiting the wives of ward heads as leaders of new groups of adolescent girls. These groups meet weekly in the house of the ward head and are tasked with helping the community to achieve a clear development goal, such as malaria control or vaccination against infectious diseases.

This approach is not only acceptable to the community, but it gives the girls a purpose and a role within the community, improving their status but also contributing to the well-being of the community. With active adolescent girls groups, it is easier to approach them for other campaigns that will impact health, education, or livelihood development within their communities.

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*a Unpublished fieldwork (GHK, 2011).*
partner countries (Malawi, for example) are mainstreaming gender equality in their development strategies and aligning gender equality as a cross-cutting principle in the targets to meet the Millennium Development Goals.

Citizenship

Creating a sense of citizenship can overcome existing ethnic and cultural divides, and can be seen as a method of promoting equity, non-discrimination, and social cohesion (Johnson 2008). The costs of conflict between cultural, ethnic, or religious groups are clear in many parts of the world, but the costs of failing to promote citizenship may go further than obvious tensions between groups. By allowing groups to be excluded from citizenship programs, such as health, education, and taxation, creates opportunity for conflict. The dangers of disenfranchisement were clearly seen in Liberia where the civil war was rooted in the legacy of unequal rights:

At the core of Liberia’s conflict lies a class of marginal young people who currently lack faith in any kind of institutions. They consider that family, marriage, education, markets, and the administration of justice have all failed them. Many have preferred to take their chances with various militia groups (Richards and others 2005).

Concluding remarks on equality, equity, and non-discrimination

In summary, a greater focus on equality, equity, and fairness is widely justified according to economic development arguments, particularly with reference to gender equality and citizenship. The examples suggest that economic and social development policies that engage women and men in a more equal manner can improve economic as well as human rights outcomes, and have shown how a lack of equitable treatment between groups can lead to disenfranchisement and conflict. Equality and non-discrimination have been incorporated into national policy, not least through the myriad of equality legislation (CREID 2007). More interesting perhaps for this study are examples where equality and non-discrimination are used as principles to improve social cohesion, educational outcomes, and, thereby, the economic prospects of ethnic minority groups and children. The majority of policy initiatives

Case Study 9: An equity-based approach is the most practical and cost-effective way of meeting the health Millennium Development Goals for children

A recent UNICEF study finds that an equity-based approach for reducing child mortality and improving maternal health is more effective than the approach that mainly focuses on improvements in national averages, and pays less attention to the poorest and most marginalized groups. This is because it is often perceived that strategies that attempt to reach the most vulnerable are more costly.

On the contrary, an equity-based approach aims to accelerate progress, reduce disparities, and lower out-of-pocket expenditures for the poor. UNICEF’s simulation exercises found that the new approach will accelerate progress toward meeting the health-related Millennium Development Goals; and at the same time, it will be considerably more cost-effective and sustainable than the approaches not based on disaggregation. Specifically, implementation of the equity-based approach in low-income, high-mortality countries, averts 60 percent more deaths for every additional US$1 million invested than the current approach. In conclusion, the UNICEF study presents a set of policy recommendations for implementing an equity-based approach:

- Identification of the most deprived children and communities is of utmost importance, as these groups are often overlooked when national development plans are put in place and resources are allocated.
- The most cost-effective interventions in health and nutrition are already well-known, thus investing in these is common sense.
- Removing barriers to service provision for the poorest and the most marginalized is key.
- Partnering with the communities in health and education interventions will improve utilization, and is highly cost-effective and sustainable.\(^a\)

\(^a\) UNICEF (2010) and UNICEF and World Bank (2011).
considered focused on women and children; given the scale of these programs, economic impacts are more likely to be measurable for these interventions. However, national policies relating to minority groups may have significant impacts on these groups, and depending on scale could have measurable economic impacts.

3.3 Governance, Accountability, and Redress

The terms human rights and governance are often used together and interchangeably (Landman 2009), even if governance only represents a development concern that is complementary to the human rights framework. This section discusses areas in which programs to improve governance integrity and freedom are likely to improve human rights and vice versa and will therefore impact on economic performance.

Governance has been defined in different ways. The World Bank tends to define it as a process—the way “power is exercised through a country’s economic, social and political institutions.”29 In practical terms, this means that World Bank work on governance has a broad remit, including public sector management. Other institutions focus on good governance; Danida (2004), for example, defines governance as:

...the way countries/societies/organizations organize to protect human rights; to elect governments, appoint office bearers and promote accountability; to provide conflict resolution and social and other services to the people through a public sector.

Accountability is closely linked to governance and is the degree to which governance can be monitored and governments or other institutions held to account for service delivery and legal obligations. However, as explained in Part 1, accountability goes well beyond good governance as traditionally defined in development literature and should include mechanisms of redress. Transparency is a key tool to hold governments to account, and requires the effective implementation of a whole range of participation rights, as defined in Part 1.

Redress refers to the process of seeking justice when rights have been violated or not realized; mechanisms for redress allow citizens to translate information gained through accountability mechanisms into action (Ringold and others 2012). Generally mechanisms of redress require accountability and good governance to give effect to civil and political rights and are important in the promotion of those rights more broadly, as well advancing economic, social, and cultural rights.

Rights-based approaches seek to create awareness of entitlements, to increase the demand for the fulfillment of rights as a tool to promote human development, and to realize human rights entitlements.

Public consciousness tends to emerge through a process of rights talk promoted by social activists. Newspapers, radio, and other local media start to run stories about human rights violations, and the public discourse begins. Building this discourse within communities can establish sustained demand for better governance and can bring governments to engage positively so that solutions can be developed and institutionalized, while public discourse is developed and mainstreamed. For example, in response to continued accusations of police brutality in Pakistan, human rights officers were appointed in each police station to guard against these established practices. The implementation of this action further increased the awareness and public discussion of torture as a norm, although actual impacts are difficult to measure.

The World Bank’s Governance and Accountability Action Plan incorporates demand-driven approaches to governance with institutional capacity building to improve governance (World Bank 2007). While this is not explicitly referred to as a rights-based approach, the similarities in practice are clear with regards to efforts of enhancing empowerment combined with strengthened accountability work.

There is a growing trend to incorporate rights-based approaches into donor strategies. Sweden has not only incorporated a rights-based approach into its overseas development policies but across domestic and foreign policy as well.30 Increasingly donors and NGOs are using rights-based approaches to develop advocacy strategies to encourage the organic development of rights talk. Universities and specialist institutes now offer courses on developing advocacy strategies, transnational networks, and donor engagement strategies; this professionalization among the human rights advocates is likely to increase the use of rights talk by development and other agencies to advocate particular policies.

A note of caution should however be sounded: rights talk is inherently an organic and populous process and attempts to steer it can be detected and discredited, particularly if

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31 For example, the Institute for the Study of Human Rights, Human Rights Advocacy Program at Columbia University, New York.
the hand of external or international actors is suspected. In Malawi, even highly educated Malawians have argued in favor of traditional culture even if it overrides human rights considerations as a reaction against what has been seen as the imposition of transnational policies (Banik 2010).

Case Study 10 shows how using popular social media and transparency can boost rights talk and stimulate action from duty bearers—it demonstrates the bottom-up nature of rights talk and shows how, by catching the mood of the people, the use of online media for transparency can be a highly effective tool to instigate change. Rights talk is closely associated with freedom of speech—in Case Study 10, freedom of speech facilitated rights talk and gave rise to rapidly growing public demand for better governance. Conversely, governments have sought to limit freedom of speech and association by emergency laws; this was the case in Tunisia where the rapid spread of rights talk using social and international media generated much of the impetus behind the events of the Arab Spring.\footnote{International Centre for Not for Profit Law (2011).}

Effective community planning allows people to use their civil and political rights to reduce corruption and to ensure that services are delivered where they are needed. In Case Study 11, a local NGO, initially supported by the EU, has worked with smaller community groups to build their capacity to monitor spending.

The concept of “elite capture” has been identified as a major area of mis-governance in transition countries (Batra

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### Case Study 10: Rights talk through social media to tackle corruption in India

Many years of improving education in India, coupled with rapid economic development and the centrality of the high-tech industries has led a new generation to challenge corruption through extensive rights talk on social media. A striking example is the website www.ipaidabribe.com. Launching in August 2010, the website caught the imagination of people frustrated by the proliferation of corruption into seemingly every sphere of public and private life. The website is a simple self-reporting tool that allows people to report the location, context, and amount of bribe which was paid.

The website caused the naming and shaming of a most guilty class of officials leading to a crackdown by the government in many of the areas in which corruption appeared most rampant.

As yet, no impact evaluations have been carried out, but the data presents a rich source for researchers. However, by shining the light of scrutiny onto previously hidden but common occurrences, at a time when the people of India were ready to express their frustration, has prompted the government, as the duty bearer, to address the inequity which results from widespread corruption.

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### Case Study 11: Community budget tracking in Nigeria

In Kano state, COBTAK, a local NGO, works with other community groups to plan the spending of discretionary funds by local governments. Once a work plan and a budget has been decided, the COBTAK team helps local groups to monitor local government spending on the project. Likewise, COBTAK meets with the local government officials to agree on a mechanism for making budgets available to community organizations.

The misuse of public money has been so widespread that there is strong demand from the community to learn the simple accounting skills that allow budgets to be tracked more effectively. In response to this, COBTAK has launched a series of radio programs to train people in these skills.

Although there is no hard data on the success of this program, local government and community organizations indicate that they feel that small-scale public works have improved as a result of this work.

\textit{Source:} GHK unpublished fieldwork.
and others 2003). This refers to the appropriation of resources by powerful elites at the expense of the wider population (Dutta 2009). It could be argued that policies rooted in human rights, with its focus on equality and non-discrimination should undermine elite capture by empowering all citizens equally. However, unless policies are specifically targeted at the most vulnerable, human rights-based polices can be used by the educated middle classes rather than by those who are most in need of support. For example, Case Study 11 refers to community budget tracking in Nigeria; even this initiative, which is targeted at the poorest, is dominated by the emergent middle classes who have literacy and numeracy to challenge budgetary processes. A vocal and active middle class can be a powerful driver of change to improve governance.

Mechanisms of accountability and redress

Accountability can be discussed in terms of governance and human rights; where governance and human rights are both incorporated into an accountability framework, it seems likely that states will be more responsive to community needs. The realization of rights and any associated economic development benefits require multiple mechanisms of accountability, redress, or enforcement. First, rights holders must believe that duty bearers can be held to account, or they will become disillusioned, undermining activities to build demand. Second, equitable mechanisms for redress will act as a driver to increase the capacity of duty bearers to deliver rights; and third, the state is legally accountable both domestically and internationally.33

Transparency is a front-line mechanism of accountability. Officials who know that the public can scrutinize all documentation are less likely to act corruptly. The right to information can improve the efficiency of public services—a desirable economic outcome.

Effective measurement and reporting can also act to hold institutions to account. For example, metrics such as health scorecards can be used to support community-planned interventions and ensure that momentum is maintained after training teams have left.

Human rights are embedded in the framework of international law, with examples of more localized systems of accountability and redress that are more accessible to a greater number of people. Localized systems can be used by the poorest to provide accountability more readily than national or international accountability mechanisms. These local-operating systems show how the effectiveness of programs can be improved by ensuring that duty bearers are held to account locally.

Grievance redress mechanisms can also be operated at the government agency level such as complaints offices or hotlines, or by institutions such as where donors would respond to project-related grievances. Regardless of the mechanism employed, their impartiality and independence is a critical factor. Empirical evidence of how grievance redress mechanisms improve governance is limited; a World Bank review found little evidence presented which sought to link complaint handling to efficiency. The review reports “redress procedures are under-developed in many developing countries, and deserve further analysis, piloting, and support” (Ringold and others 2012).

Institutional capacity – developing the duty bearers capacity to deliver rights

One of the key challenges to promote sustainable improvements in governance is developing the capacity of duty bearers to enable the realization of rights (exemplified in Case Study 12). Increasing demand from right holders is a necessary but insufficient condition to improve rights outcomes and social and economic development outcomes. The other side of increasing demand for rights is to increase the supply—or increase the institutional capacity of governments to have policies in place to make rights feasible.

Building this capacity must focus on process in multiple forms:

- **Developing awareness** – using rights talk or more formal training approaches to sell the benefits of delivering particular rights (SLSA team 2003). Gaining the support of senior managers in state institutions plays a critical role in developing awareness and changing the behavior of staff at all levels.

- **Community participation in planning and budgeting** – encouraging communities to engage with the state (through local government or other mechanisms) and to identify their needs, to express their demands, and to assist with designing practical solutions. To achieve this, local structures must be in place to initiate this engagement (UNAIDS 2004). Donors supporting such programs should ensure that participating civil society organizations must be credible and must represent marginal groups.

- **Strengthening the links between levels of government** to clarify roles and responsibilities with regards to particular rights (UNAIDS 2004).

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33 Refer to the discussion on accountability in Part 1.
Ensuring that divisions of responsibility between levels of government are supported by adequate resources (UNAIDS 2004).

Strengthening the domestic legal system to support the implementation of rights and to provide a mechanism of redress (Gauri 2011).

Concluding remarks on governance, accountability, and redress

Transparency and accountability are powerful tools to increase public sector efficiency and deliver services—often minimum essential rights—to citizens. Civil and political rights mediated via rights to information legislation and social media have proved effective in reducing corruption. In particular, the organic growth of demand to stop corruption appears to have had a significant effect in India.

Achieving good governance calls for active discourse between citizens and state. A rights-based approach seeks to simultaneously build the demand for rights claims among citizens while building the capacity for delivery within state institutions. Without civil and political rights, that discourse and the demand for rights cannot flourish. Freedom of association has become a crucial issue in the current development of democratizing countries in the Middle East.

Human rights-based policies should be clearly targeted to empower the most vulnerable people; awareness raising and education will be critical to encourage the poorest to engage with such policies. Without this targeted approach, interventions such as rights to information and budget tracking may only benefit the educated middle classes who have the capacity to use policy to demand their rights.

Development professionals, working through a rights-based approach, face the challenge of balancing promotion of rights (to build demand from citizens) with efforts to develop capacity (in the state institutions to satisfy the demands of citizens). The organic growth of demand for better governance and accountability can be rapid, particularly when linked to social media and information and communications technology, but donors must take care not to push the process in such a way as to appear to be imposing transnational policies without reference to local practices.

3.4 Balancing Short-term and Longer-term Perspectives (progressive rights)

This section explores whether the notion of progressive rights is used at country and sector levels and, if so, how it is implemented, including how key short-term trade-offs are justified and balanced against long-term gains.

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**Case Study 12: The importance of institutions in realizing the right to water in South Africa**

The South African Ministry of Water Affairs in South Africa announced in 2001 that 6,000 liters of clean water would be provided free of charge to poor households. This policy was heralded in 1998 when the National Water Act sought to reduce inequalities in water provision by nationalizing water resources and planning more equitable distribution.

The policy has been successful in that 7 million more people were provided with clean water in the first 7 years of the policy. This policy fulfils the basic right to water and reduces the incidence of water-borne disease, improving health, well-being, and livelihoods. Provision of water closer to villages also empowers women by reducing the time taken collecting water and so enabling them to engage in education or employment.

However, despite the excellent intentions and relatively successful implementation, this policy highlights several challenges, which may be addressed through institutional capacity building (Gauri 2011). First, the policy was conceived at a national level and delivered locally; this led to much confusion over the rights and duties of each level of government and between provincial and national ministries. Second, research indicates that district municipalities were not adequately consulted or empowered to implement the policy. Third, the build-operate-train-transfer (BOTT) schemes, used to implement the policy, were felt to be top-down—failing to consult local groups meant that they did not fully understand the local water system. Fourth, some operators were reluctant to take part because they would not be able to recover the costs and so continued to charge even the poorest people for water (SLSA team 2003).
As discussed in Part 1, CESCR Article 2(1) acknowledges that due to the limits of available resources, primarily economic, social, or cultural rights cannot be realized immediately but only progressively (Seymour and Pincus 2008). Consequently, countries are not under an international legal obligation to go beyond available resources in achieving the progressive realization of economic, social, and cultural rights. However, they are required to use their maximum available resources to realize human rights, to demonstrate “reasonable effort” and to ensure the adoption of policies and programs that facilitate the realization of human rights over time. They are also required to fulfill certain minimum levels of rights immediately and in a non-discriminatory manner (McKay and Vizard 2005).

Policy prioritization and trade-offs between efficiency and equity

While the realization of basic human rights may need to be prioritized over growth objectives, investment in human rights is good for growth. Findings also show that investing today in health and education, especially investment in educating girls and women, will pay off in the future. The international children’s development organization, Plan (2008), for example, estimates that the economic cost of failing to educate girls to the same standard as boys in 65 low- and middle-income countries and other countries in transition is US$92 billion per year. As shown in section 3.1, there are many good reasons that countries make such social rights an obligation and an entitlement that can be claimed by individuals and that directly informs economic policy.

There is often a trade-off between efficiency (in growth of output, for example) and equity (in distribution of income, for example) (McKay and Vizard 2005). This may relate to specific policies and programs, such as minimum-wage legislation. As such, trade-offs might be more of an issue on particular subsidies or taxes, which may have redistribution effects and which should be a specific part of economic decision-making. Problems might also arise when there are fiscal constraints. In this case, aggregate social expenditure and social policy spending might be affected. As such, the nature of the discussion about balancing short- and longer-term perspectives would more likely be around political economy and welfare economy objectives. As Anderson and Foresti (2009) point out, in realizing economic, social, and cultural rights, governments will have to consider the cost implications. Costs will include building schools or employing teachers, purchasing drugs and medicines, and enforcing legislation (McKay and Vizard 2005).

As discussed in Part 1, welfare economics is concerned with the aggregate social utility of the members of a society and seeks to measure the extent to which the objectives of society as a whole are fulfilled. Welfare economics is useful to predict the outcome and guide the selection of alternative policies and programs but the analysis of the best policy or program depends on the objective set that consists essentially of value judgments.

The tension from a human rights perspective with the “consequentialism” of welfare economics “is that some actions are inherently wrong even if they result in a desirable outcome” (Seymour and Pincus 2008). This may result in critique from economists because the human rights scholars lack the methodological tools to resolve trade-offs in a manner satisfying basic values and norms (Seymour and Pincus 2008). However, human rights can help to set alternative value judgments and thus become an integral part of the convergence with welfare economic analysis.

Joseph Stiglitz (2002) argues that country-level economic policy, which focuses on pacing and sequencing of policies and programs, is more likely to bring better outcomes in terms of economic development, economic growth, and equity. A human rights approach recognizes the need for a progressive approach over time to the realization of economic, social, and cultural rights (but not for civil and political rights), as long as that certain criteria are met, including focus on the realization of immediate obligations; that steps toward rights realization are deliberate, concrete, and targeted; and that participatory rights, including decision-making in resource allocation, are complied with. In this regard, institutional infrastructure, such as financial institutions and banks as well as legal systems, all create attractive economic environments (fair trade, a tax system, and rule of law, for example) that contribute to better economic outcomes.

At the sectoral level, donors often impose costs under loan conditions in order to avoid and/or mitigate the adverse social and/or environmental effects of a development project. For example, the Equator Principles Financial Institutions commit to financing development projects only where the borrower is able to comply with the social and environmental policies, procedures, and standards that implement the Equator Principles. Despite this, in some cases borrowers may not be required to comply with these requirements in full if it would force them out of the market—economic decision-making may prioritize short-term profits over potential long-term social and/or environmental adverse effects. This issue gives rise to a number of human rights concerns such as whether the protection of human rights are given their proper place in decision-making, whether adequate safeguards are in place.
(domestic legislation, accountability mechanisms), as well as what role donors have in shaping domestic policy in partner countries. A commitment to a comprehensive human rights framework will demonstrate the added value of human rights in economic decision-making to meeting a range of end goals, and legitimating key short-term trade-offs that can be then justified and balanced against long-term gains (exemplified in Case Study 13). Hence, progressive realization of human rights is key.

Concluding remarks on short-term and long-term perspectives

In summary, from a human rights perspective, where rights cannot be realized immediately due to the limits of available resources, progressive realization recognizes that they can be achieved over time; but this is subject to meeting criteria that have been developed over decades as part of the international human rights normative and doctrinal framework. Countries are not under an international legal obligation to go beyond available resources, but they are required to realize the minimum essential levels of economic, social, and cultural rights immediately, to use their maximum available resources in the realization of those rights, to demonstrate reasonable effort and ensure the adoption of policies and programs that facilitate the realization of the relevant human rights over time, and to undertake a number of other specific steps as part of complying with the obligation of progressive realization. Where trade-offs are found between efficiency and equity the balancing of short- and longer-term objectives can only be meaningfully justified once the human rights requirements are integrated.

Case Study 13: Trade-off between the promotion of economic and social rights and growth

Econometric analysis carried out by Robert Barro and Xavier Sala-i-Martin found that raising health expenditure 5 percent via taxation could reduce economic growth by up to one percent per year. At the same time, their research found that improving health standards by raising life expectancy from 50 to 60 years would raise growth by at least one percent per year. As a result, they concluded that the contribution of improved health standards to economic growth will outpace any reduction that might result by raising health expenditures, thus increasing economic growth overall.

Source: Based on Anderson and Foresti (2009).
4. Conclusions

At a conceptual level, the desk study highlights how human rights, including the content of international human rights law, can complement economic policymaking. Its standards, principles, and doctrines can help set value judgments that underpin the very objectives of development.

In demonstrating the potential for complementarity based on what human rights might bring to mainstream development economics, this study emphasizes several important factors for understanding the consequences for economic distribution:

a. The need to focus on distribution outcomes (in economic terms, on the distribution function—not just production and exchange functions) and put these at the center of economic development policies and value judgments. Human rights are concerned with distribution in outcomes as well as equitable process.

b. Put people at the center of economic development, focusing on disaggregated/marginal distribution outcomes rather than aggregate/average outcomes and highlighting the need for disaggregated data. This would supplement existing approaches bringing additional attention to the rights of the most marginalized groups.

c. The need for clearer prioritization of human rights in economic policy and decision-making that recognizes their pre- eminent value and one against which the merit of other values are to be justified.

d. The need for new explicit welfare economic norms and value judgments built around distributional equity and redistribution goals that reflect human rights objectives. These value judgments include:
   • Prioritizing minimum essential levels of socio-economic rights for all;
   • An equal distribution of the means to realize socio-economic rights necessary for a dignified life, except where an unequal redistribution is to the benefit of targeted disadvantaged members of society;
   • The presumption that there will be no retrogression of rights, and as such an avoidance of non-redistributive resource allocation against certain groups; and
   • A definition of ‘compensation’ that requires immediate remedial justice in the event of a violation.

a. Emphasize the importance of freedoms in preventing elite capture and allowing for societal actors to debate and negotiate the future of societal strategies.

At a practical and operational level—bearing in mind that any conclusions could be further elaborated by empirical evidence collected in developing countries—the study raises a few salient learning points with regards to the integration of human rights in development and economic policymaking, including the positive lessons from the empirical evidence reviewed:

a. Human rights add value when it comes to the quality of economic growth, and specifically the distribution of growth within a society. As such, they should not be seen as an inhibitor of economic development and growth, but rather as a framework for economic development which can inform economic policy and guide social welfare on aspects related to equity in particular.

b. Human rights can be an effective tool for poverty reduction for three reasons: (i) Human rights contribute to empowerment and social protection of marginalized groups through social mobilization and mechanisms of strengthening accountability. (ii) Human rights reinforce the work on equity and equality by emphasizing non-discrimination. This raises a demand for disaggregate approaches and for documentation of how groups are
involved and how they participate. And, (iii) human rights bring added attention to legal approaches, a feature that local actors, including state authorities themselves, are employing in social mobilization strategies.

c. **Equality, equity, and non-discrimination are widely justified according to economic development arguments**, particularly with reference to gender equality and citizenship. The examples suggest that economic and social development policies, which engage women and men in a more equal manner, can improve economic development as well as rights outcomes and have shown how a lack of equitable treatment between groups can lead to disenfranchisement and conflict. Equity and non-discrimination are used as principles to improve social cohesion, educational outcomes, and, thereby, economic prospects of children.

d. **In order to benefit the poorest, human rights-based interventions must be clearly targeted.** Human rights-based policies such as rights to information may only benefit the educated middle classes unless they are supported by additional capacity-building measures—although, the demand for rights by a vocal and educated middle class can also be an effective driver of change.

e. **Human rights have been integrated in policymaking within a variety of themes and sectors.** This goes for social and gender policies, migration policy, land rights, and private sector engagement with surrounding communities and societies. Human rights are cornerstones of citizenship. As such, human rights precondition demand-led governance. Freedom of speech and the right to information; freedoms of association, assembly, and movement; and the right to take part in the conduct of public affairs are conditioning factors for citizen-based governance and for social accountability. The examples indicate therefore that civil and political rights are important in enhancing service delivery and in preventing elite capture and corruption. Human rights are therefore an implicit or explicit component of effective governance policies.

f. **Human rights are grounded in international and often national law and based on ratified commitments by states**; these laws and commitments are often ignored in development programming. Legislation used in combination with targeted mobilization efforts can generate sustainable social outcomes, especially when supported by strong political commitment. Alternatively, court interpretation of constitutional rights has implied lasting changes in social entitlements and service delivery. The examples and cases analyzed in the report therefore attest to the growing importance of law as a tool and as an arbiter in generating desired development outcomes.

g. **Human rights are measurable through recently developed and internationally recognized indicators.** These can be adapted for use in economic and social tools and metrics to plan policy, design programs and projects, set terms and conditions for economic assistance, and evaluate processes and outcomes.

Generally, the analyses and examples of the study demonstrate that human rights have entered development policies and programs as a positive instrument for people and for their governments. The implementation of human rights becomes part of a domestic policy field, not an externally generated one. As such, human rights may serve to mediate domestic agendas productively. The risks of capture by elites and middle classes are present, but most of the examples related here demonstrate important potential gains with regards to the quality of economic policies and the target groups of development policies. Lack of knowledge of the human rights framework by development actors is a constraining factor. Sometimes lack of knowledge may be more important in explaining particular tensions than de facto disagreements. Thus what has been brought forward by this study is a perspective of complementarity between human rights and economics. This perspective may translate into promising results as regards poverty reduction and the quality of growth.
Annex 1: Key Human Rights Doctrines and their Interpretation

This annex to the desk study provides an overview of human rights requirements largely in the area of economic, social, and cultural rights. By explaining the central doctrines and elaborating on their current interpretation, the annex offers an essential introduction to the content of obligations to better inform economists working on development policy. The overview outlines the normative content, scope, and parameters of key human rights doctrines. It also covers the central doctrines along with overarching principles that apply to all sets of rights such as the principles of non-discrimination and equality, participation, and accountability.

A1.1 ‘Progressive Realization’ of Rights

Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) reads as follows:

*Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*

While the Covenant provides for progressive realization and as such acknowledges the constraints due to the limits of available resources, it also imposes obligations that are of immediate effect. The directive “undertake to guarantee” that relevant rights “will be exercised without discrimination” as per ICESCR Article 2(2) is not subject to progressive realization:

*Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

Notably, the prohibited grounds of discrimination include economic and social situations of individuals and groups as well as their property status or lack thereof (for example, access to essential services should not be made conditional on a person’s land tenure status). The prohibition on discrimination applies also to “indirect” discrimination—that is, “laws, policies or practices which appear neutral at face value, but have a disproportionate impact on the exercise of the human rights recognized in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

*The comparable provision in the Convention on the Rights of the Child (CRC) is found at article 4: “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.”*


of Covenant rights as distinguished by prohibited grounds of discrimination”.37

The undertaking in ICESCR Article 2(1) “to take steps” is not qualified or limited by other considerations. Thus while the full realization of the rights may be achieved progressively, steps toward that goal must be taken within a “reasonably short time” after the Covenant’s entry into force for the states concerned and should be “deliberate, concrete and targeted as clearly as possible toward meeting the obligations recognized in the Covenant”.38 Allowing for rights to be realized over time (progressively) should not be misinterpreted as depriving the obligation of all meaningful content.39 As the Committee on Economic, Social, and Cultural Rights on has remarked:40

It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the raison d’être of the Covenant, which is to establish clear obligations for States parties in respect of the full realization of the rights in question.

The progressive realization of economic, social, and cultural rights requires a “specific and continuing obligation to move as expeditiously and effectively as possible toward the full realization” of the rights.41 Finally, giving effect to various aspects of socio-economic rights that may not be resource dependent would impose obligations of an immediate nature.

A1.2 ‘Minimum Essential Levels’ of Rights and Corresponding ‘Core Obligations’

There is another obligation of immediate effect. Under its mandate to interpret the Covenant, the Committee established in 1990 that progressive realization notwithstanding, “a minimum core obligation” to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. The realization of the minimum essential levels of economic, social, and cultural rights imposes “core obligations” on states party to the Covenant and as such are of an immediate nature (i.e., not subject to progressive realization).42 The Committee further concluded on this point that “a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant,” and as such the burden of proof rests with the state to demonstrate it has done all it can to ensure the minimum essential levels of rights for its people, or else it be found in violation of its human rights obligations.43

International human rights law is not meant to be unworkable, and any assessment as to whether a state has discharged its minimum core obligation takes account of resource constraints applying within the country concerned.44 The parameters are provided in Article 2(1), which requires each state party to take the necessary steps “to the maximum of its available resources” (a doctrine explored below). In order for a state party to be able to attribute its failure to meet at least its core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.45 Notably, “maximum available resources” refer both to the resources existing within a state as well as those available from the international community through “international cooperation and assistance”;46 the core human rights obligations “create national obligations for all States, and international obligations for developed States and others that are in position to assist.”47

As the Committee concludes in its Statement on Poverty:

When grouped together, the core obligations establish an international minimum threshold that all developmental policies should be designed to respect ...
If a national or international anti-poverty strategy does not reflect this minimum threshold, it is inconsistent with the legally binding obligations of the State party.46

Finally, even where the available resources remain demonstrably inadequate, the obligation remains for a state party to (a) strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances; (b) monitor the extent of the realization, or more especially of the non-realization, of economic, social, and cultural rights; and (c) devise strategies and programs for their promotion.49 In addition, even in times of severe resource constraints, whether caused by a process of adjustment, of economic recession, or by other factors, the most disadvantaged and marginalized individuals and groups can and indeed must be protected by the adoption of relatively low-cost targeted programs.50 Failure to take these steps could also constitute a violation of a state’s obligations under the Covenant.

A1.3 Maximum Available Resources

ICESCR Article 2(1) provides that states use their maximum available resources in realizing economic, social, and cultural rights. There is no definitive guidance as to what constitutes maximum available resources, although some direction can be highlighted.

In considering an alleged failure of a state party to take steps to the maximum of its available resources, the Committee will examine the measures the state has taken and will assess whether they can be considered “adequate” or “reasonable”. This would include the extent to which the measures were targeted toward fulfilling rights and were nondiscriminatory; whether the state adopts the policy option that least restricts Covenant rights; whether the particular situation of disadvantaged and marginalized individuals and groups had been taken into account; and whether grave situations or situations of risk were prioritized.51

As mentioned, the resources available are those existing within the state, as well as those available from the international community through international assistance and cooperation. Maximum available resources are measured against the internationally endorsed 0.7 percent GNI in official development assistance: this number represents an objective standard and its phased achievement is used by the Committee as a yardstick to measure whether a (industrialized) country, other than the right-holders own, is taking steps to the maximum of its available resources. (Its use as an objective form of evaluation does not address the fact that it has been set in order to lift only half, and not all, of the world’s poor from extreme poverty by 2015).

In the periodic reporting process, CESCR has repeatedly called on states to seek assistance where needed to realize economic, social, and cultural rights.52 While the requesting state is likely to retain the prerogative to decline assistance and cooperation toward those ends, where minimum essential levels of economic, social, and cultural rights are not being met, it has a strong presumption that it will accept suitable support and the burden of justifying the rejection of assistance would likely rest with the receiving state.

The availability of resources, although an important qualifier to the obligation to take steps, does not alter the immediacy of the obligation, nor can resource constraints justify inaction.53 Moreover, maximum resources are not (or no longer) limited to financial resources and can include human, technical, organizational, natural, and informational resources, even if financial resources are a significant component of what constitutes a state’s resources (Balakrishnan and others 2011: 3). The UN Committee on the Rights of the Child (CRC) asserts that in order for a state to be able to tell whether it is fulfilling (children’s) economic, social and cultural rights “to the maximum extent of … available resources”, it must be able to “identify the proportion of national and other budgets allocated to the social sector and, within that, to children, both directly and indirectly”.54 Lastly, a determination as to what constitutes maximum available resources would reasonably depend “not only on the level of output of an economy, its rate of growth, and

46 CESCR, Statement on Poverty, para. 17.
47 CESCR, General Comment No. 3 on The Nature of States Parties’ Obligations, para. 11.
48 CESCR, General Comment No. 3 on The Nature of States Parties’ Obligations, para. 12; CESCR, General Comment No. 21 on the Right of Everyone to Take part in Cultural Life, UN Doc. E/C.12/GC/21 (2009) para. 23; and CESCR, General Comment No. 15 on the Right to Water, para. 16.
49 For further reference, CESCR, Statement on an Evaluation of the Obligations to Take Steps to the ’Maximum Available Resources’ under an Optional Protocol to the Covenant, UN Doc. E/ C12/2007/1, para. 8.
51 CESCR, Statement on an Evaluation of the Obligations to Take Steps to the ’Maximum Available Resources’ under an Optional Protocol to the Covenant, para. 4.
52 CRC, General Comment No. 5, General Measures of Implementation for the Convention on the Rights of the Child, UN Doc CRC/GC/2003/5, para. 5. The Committee further remarks that: “Some States have claimed it is not possible to analyse national budgets in this way. But others have done it and publish annual ‘children’s budgets’.”
the level and growth of its inflows of resources from other economies. It also depends on how the state mobilizes resources from the people living under its jurisdiction to funds its obligation to fulfill human rights" (Balakrishnan and Elson. 2008).

**A1.4 Non-retrogression**

There is a strong presumption that retrogressive measures on the part of a state are not permitted. Potentially retrogressive measures would be, for example, cuts to expenditures on public services that are essential for the realization of economic and social rights, or cuts to taxes that are critical to funding those services (Balakrishnan and Elson 2008). Should a state party use resource constraints as a justification for any steps that lead to a retrogression in rights, the Committee indicates that it would consider such information on a country-by-country basis in light of “objective criteria” such as the country’s level of development; the severity of the alleged breach, including whether the situation concerned the enjoyment of the minimum essential level of a right; whether the state party had sought to identify low-cost options; and whether it has sought cooperation and assistance or rejected offers of resources from the international community for the purposes of implementing the provisions of the Covenant without sufficient reason.

If any deliberately retrogressive measures are taken, the state party has the burden of proving that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant, in the context of the full use of the maximum available resources of the state party. In its General Comment on the right to social security for example, the Committee explains that any deliberately retrogressive steps would be considered against whether the state party had reasonable justification for the action; undertook a comprehensive examination of alternatives; ensured genuine participation of affected groups in examining the proposed measures; determined if the measures were directly or indirectly discriminatory; determined if the measures would have a sustained impact on the right to social security, an unreasonable impact on the right to social security or deprive an individual or group of the minimum essential level of the right; and whether there was independent review of the measures at the national level. It can be assumed that this test would apply to the determination of whether a violation has occurred as a result of retrogression in rights with regard to all rights in the Covenant.

**A1.5 Obligations to Respect, Protect, and Fulfil Economic, Social, and Cultural Rights**

To assist states in meeting their obligations, CESCR applies a tripartite model: *obligations to respect, protect, and fulfil.* This interpretative tool provides that the obligation to respect human rights imposes an obligation on states and all its institutions to refrain from interfering either directly or indirectly with the enjoyment of rights. For example, a violation of the obligation to respect the right to food occurs if the government arbitrarily evicts people from their land, especially if the land was their primary source of food; or by denying access to essential healthcare sought by particular groups such as, for example, minorities, detainees, and asylum seekers. The obligation to respect does not necessarily involve significant state involvement, but positive action (legislation and training of officials) may be required. The obligation to protect human rights requires that states and their agents take the measures necessary to prevent any individual or entity from violating human rights. The obligation to protect requires the government protect the enjoyment of the right from interference by non-state actors, such as corporations, for example, and other entities. The obligation to *fulfil* requires that measures be taken to ensure the realization of human rights, for example, by providing the appropriate training of doctors and people in the health services. The obligations to protect and to fulfil require positive measures, including through legislative, administrative, and budgetary means; in the latter case “to facilitate, provide, and promote” the enjoyment of these rights as part of the state’s broader obligation to see them fulfilled.

**A1.6 Obligations of Conduct and Obligations of Result**

CESCR highlights that economic, social, and cultural rights include both what may be termed “obligations of conduct”

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56 CESCR, Statement on an Evaluation of the Obligations to Take Steps to the ‘Maximum Available Resources, para. 10.
57 CESCR, General Comment No. 3 on the Nature of States Parties’ Obligations, para. 9; CESCR, General Comment No. 19 on the Right to Social Security, para. 42.
58 CESCR, General Comment No. 19 on the Right to Social Security, para. 42.
59 See, for example, CESCR General Comment No. 14 on the Right to Health, para. 33; CESCR General Comment No. 12, The Right to Adequate Food, UN Doc. E/C.12/1999/5, para. 15.
60 CESCR, Statement on an Evaluation of the Obligations to Take Steps to the ‘Maximum Available Resources’, para. 7.
and “obligations of result” following the work of the UN International Law Commission. The initial distinction in international law was borrowed from French law in which the obligations of result tend to be stronger than that of conduct, in that “the mere fact of non-materialization of the result constitutes a violation of the obligation, rather than an obligation to make a bone fide effort with a view to achieving the result, but without guaranteeing its materialization” (Abi-Saab 1980). With regard to economic, social, and cultural rights (as other areas of international law), obligations of conduct tend to be more stringent than obligations of result, with the emphasis on the determinacy of the conduct. As seen, states are required to “take steps” and much has been developed on the quality of those steps (expeditious, deliberate, concrete, and targeted as clearly as possible toward meeting the obligations). The undertaking “to take steps”—language that appears throughout the ICESCR—is akin to assuming an obligation of conduct (Alston and Quinn 1987: 167). Obligations of conduct, in particular for rights that may entail progressive realization, require that action be ‘reasonably calculated’ to realize the enjoyment of a particular right. International courts have distinguished situations whereby the duty of the state is to take measures rather than to guarantee the achievement of desirable results. This places the notion of process at the center of determining the responsibility, whereby particular conduct (or lack thereof), in and of itself, can constitute a breach of an obligation. Conversely, the obligation of result is not discharged if the particular process is not respected in reaching a given outcome. The privatization of essential services offers an example: privatization may successfully increase public revenue among other benefits in a given developing country, however it can contravene rights if the process results in certain people or groups within the country being rendered unable to afford clean water, healthcare, or primary education. Results are of course also important; as Gauri (2004: 471–2) highlights, human rights in this area are concerned not only with outcomes but with the distributions in outcomes, and not only averages. He rightly remarks: “The entire distribution is of concern because rights theories take seriously the idea that every human being is worthy of respect”.

A1.7 Human Rights Principles

In addition to these doctrines there are a number of principles that underpin the theory and inform the practice of human rights. These are addressed elsewhere in this study, but it is worth briefly recounting them once again.

A1.7.1 Non-discrimination and equality

Non-discrimination and equality constitute fundamental aspects of the states’ human rights obligations, and human rights treaties prohibit discrimination on a range of grounds. ICESCR Article 2, paragraph 2 lists the prohibited grounds of discrimination as “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Less attention has been paid to the fact the Covenant prohibits any distinction in the enjoyment of rights on the basis of property and recently, the Committee on Economic, Social and Cultural Rights has interpreted “other status” to include the economic and social situation of an individual or group. The Committee points out that these additional grounds are recognized because they reflect the experience of social groups that are vulnerable and have suffered and continue to suffer marginalization. Discrimination matters to development, not least because it “undermines the fulfilment of economic, social, and cultural rights for a significant proportion of the world’s population. Economic growth has not, in itself, led to sustainable development, and individuals and groups of individuals continue to face socio-economic inequality, often because of entrenched historical and contemporary forms of discrimination”.

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A1.7.1.1 Non-discrimination and equality

Non-discrimination and equality constitute fundamental aspects of the states’ human rights obligations, and human rights treaties prohibit discrimination on a range of grounds. ICESCR Article 2, paragraph 2 lists the prohibited grounds of discrimination as “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Less attention has been paid to the fact the Covenant prohibits any distinction in the enjoyment of rights on the basis of property and recently, the Committee on Economic, Social and Cultural Rights has interpreted “other status” to include the economic and social situation of an individual or group. The Committee points out that these additional grounds are recognized because they reflect the experience of social groups that are vulnerable and have suffered and continue to suffer marginalization. Discrimination matters to development, not least because it “undermines the fulfilment of economic, social, and cultural rights for a significant proportion of the world’s population. Economic growth has not, in itself, led to sustainable development, and individuals and groups of individuals continue to face socio-economic inequality, often because of entrenched historical and contemporary forms of discrimination”.

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1. CESCR, General Comment No. 3 on the Nature of State Parties’ Obligations, para. 1.
5. “Property status, as a prohibited ground of discrimination, is a broad concept and includes real property (e.g., land ownership or tenure) and personal property (e.g., intellectual property, goods and chattels, and income), or the lack of it. The Committee has previously commented that Covenant rights, such as access to water services and protection from forced eviction, should not be made conditional on a person’s land tenure status, such as living in an informal settlement”: CESCR General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights, para. 25.
6. CESCR General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights, para. 27.
7. CESCR General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights, para. 1.
can be discriminatory in the sense that particular people and communities are marginalized by or through development.

AI.712 Participation

Active, informed, and effective participation is a key principle of international human rights law, which affirms the right to take part in the conduct of public affairs.68 There are a range of provisions that address various aspects of participation rights, including freedom of association (ICCPR), the freedom to seek and receive information (ICESCR), and the right to education (CRC, ICESCR, Convention on the Elimination of All Forms of Discrimination against Women). The Declaration on the Right to Development has the prerogative of the state to formulate appropriate national development policies: subject to the “active, free and meaningful participation in development” of the population; being aimed at the “constant improvement of the well-being of the entire population and of all individuals”; and resulting in “the fair distribution of the benefits resulting there from.”69 Participation rights also figure prominently among minorities and indigenous peoples,70 in many cases requiring their “free, prior and informed consent”71. In its assessment of whether a state party has taken reasonable steps to the “maximum of its available resources to achieve progressively the realization of the provisions of the Covenant”, as required under the ICESCR, the Committee places great importance on transparent and participative decision-making processes at the national level.72

AI.713 Accountability

There is a general obligation in international human rights law to provide a prompt, accessible, and effective remedy before an independent authority, including, where necessary, recourse to a judicial authority for violations of human rights. Accountability mechanisms could include judicial (e.g., courts and tribunals, and judicial review of executive acts and omissions); quasi-judicial (e.g., ombudsmen, international human rights treaty bodies); administrative (e.g., preparation, publication, and scrutiny of human rights impact assessments); or political (e.g., parliamentary) processes (Hunt and others 2005: 77). As has been often pointed out in discussions on human rights and development, the principle of accountability is what distinguishes charity from claims, and renders poverty not merely a matter of misfortune but a matter of injustice. The development literature highlights that different and complementary institutions (political, economic, legal, etc.) are necessary for achieving accountability and efficient resource allocation (McKay and Vizard 2005: 9).

Ensuring accountability requires monitoring, the objective being both (a) to contribute to the attainment of targets and the realization of rights, and (b) to enable a right-holder to hold a duty-bearer to account for the failure to discharge its duties. In the former instance, the aim is to assist in the realization of human rights and to prevent their violation; in the latter case, it includes ensuring that where human rights obligations are breached responsibility is attributed. When it comes to addressing poverty and development, it may not always be easy to link each rights claim with a clear duty and duty-bearer; however, obligations that do not easily lend themselves to specifying exact duties of particular agents—that is, rights for which the right/duty correspondence is not clear-cut—does not determine its status as a right, although the exercise of rendering imperfect obligations perfect is of course important (Sen 2000). Notably, advances in the work on human rights indicators can be important in rendering imperfect obligations perfect.73 Finally, monitoring

68 ICCPR, Article 25(a).
69 Declaration on the Right to Development, Art. 2(3).
71 Declaration on the Rights of Indigenous Peoples: “Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return (art. 10). States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.” [Art.32(2)].
72 CESCR, Statement on an Evaluation of the Obligations to Take Steps to the ‘Maximum Available Resources’, para. 11.
73 “The conceptual and methodological framework on indicators for human rights assessments of the Office of the High Commissioner for Human Rights translates the narrative on the normative content of human rights (starting with the related provisions of international human rights instruments and general comments of treaty bodies) into a few characteristic attributes and a configuration of structural, process and outcome indicators. The identified indicators bring to the fore an assessment of steps taken by the State party in addressing its obligations—from acceptance of international human rights standards (structural indicators) to efforts being undertaken by the primary duty-bearer, the State, to meet the obligations that flow from the standard (process indicators) and on to the outcomes of those efforts from the perspective of
and accountability procedures should also extend to global actors—such as the donor community, intergovernmental organizations, and transnational corporations—whose actions affect the enjoyment of human rights in many countries (Hunt and other 2005).74

Annex 2: Analytical Framework
<table>
<thead>
<tr>
<th>Category</th>
<th>Generic questions</th>
<th>Expected/ Hypothetical generic answers</th>
<th>Macro/Country level</th>
<th>Theoretical Review</th>
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</thead>
<tbody>
<tr>
<td>1. Human Rights integration and influence on country economic policies &amp; programs</td>
<td>How do you define human rights (in relation to matters of economic policy)? Have human rights been integrated practically into economic policies? If so, how and to what extent have human rights guidance/ideas/elements influenced country economic policy decision-making/Bank advice? How and to what extent have human rights guidance influenced economic policy outcomes (in so far as you are able to say). What, if any, were the barriers to the inclusion of human rights in economic decision-making and policies? What was the rationale and outcome of including of human rights?</td>
<td>Health, Governance, Infrastructure Development, Private Sector Development</td>
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<tr>
<td>2. Distributional policies and human rights</td>
<td>What was the rationale and outcome of the inclusion of human rights in terms of the country growth, unemployment, distributional of income, assets and natural resources?</td>
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<tr>
<td>3. Equality, Equity and non-discrimination in country policy-making and decisions</td>
<td>Would a stronger focus on equality, fairness and on non-discrimination be justified according to economic arguments? Can developing country examples be described where these concerns are successfully integrated in policies and programs? Are there examples where despite espoused plans incorporating equality, few positive impacts (rights and economic) are apparent?</td>
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<td>4. Balancing short and longer term perspective (progressive rights)</td>
<td>How does the timeframe affect arguments and justifications? What key short-term trade-offs were made and how were these balanced against longer-term gains? Is the notion of progressive rights integrated and if so how is it implemented?</td>
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(continued on next page)
### Analytical Matrix and Study Questionnaire for interviews and document review

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<thead>
<tr>
<th>Generic questions</th>
<th>Expected/hypothetical generic answers’</th>
<th>Macro/Country level</th>
<th>Theoretical Review</th>
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<tbody>
<tr>
<td><strong>5. Freedoms, redress and empowerment (effectiveness in rights-perspective vs. development approaches in poverty reduction)</strong>&lt;br&gt;Does the rights-perspective (with its emphasis on individual capacity and its focus on dignity and freedom) provide tools that are more effective in poverty reduction/equal opportunities than the development approaches (to participation and social mobilization)?&lt;br&gt;Under what circumstances does a rights perspective assists in poverty reduction? (e.g., at what stage in the cycle of conflict or development is a rights perspective most beneficial to economic growth?)&lt;br&gt;What are the challenges / barriers?</td>
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<td><strong>6. Governance, freedom and integrity</strong>&lt;br&gt;Is the emphasis on freedoms and transparency instrumental in creating more sustainable growth?&lt;br&gt;What case can be made for the importance of CPR in achieving good governance?&lt;br&gt;What case can be made for the importance of CPR in realizing economic, social, and cultural rights?&lt;br&gt;Is there evidence that CPR leads to better governance and to less corruption? Under what circumstances is this the case?&lt;br&gt;What are the challenges / barriers?</td>
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<td><strong>7. Connections between human rights and MDGs</strong>&lt;br&gt;Is there evidence that connections are increasingly made between human rights realization and the implementation of the MDGs?&lt;br&gt;What are the MDGs indicators?&lt;br&gt;What are the challenges of integrating human rights into MDG framework? (i.e. MDG framework is much more narrow, how does one fit CPR or economic, social, and cultural rights into the MDGs as they are very narrow)</td>
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Annex 3: Persons consulted

- Mr Ariel Fiszbein, Chief Economist, Human Development
- Mr Ambar Narayan, Senior Economist, PREMPR (Economic Policy and Poverty Reduction), World Bank
- Ms Motoko Aizawa, Sustainable Advisor, IFC, World Bank
- Mr Shantayanan Devarajan, Chief Economist, World Bank
- Mr Varun Gauri, Senior Economist, World Bank
- Ms Noorulain Masood, Economist, World Bank
- Mr Keith Hansen, Sector Director, HNP (Health, Nutrition & Population), World Bank
- Mr René Taus Hansen, Senior Advisor on human rights, Danida
- Ms Margrethe Andersen, Deputy Director, Evaluation Department, Danida
Annex 4: Terms of Reference

NORDIC TRUST FUND

DESK STUDY ON THE INTEGRATION OF HUMAN RIGHTS INTO DEVELOPMENT POLICIES AND PROGRAMS AND ITS ECONOMIC IMPACT AND IMPLICATIONS.

TERMS OF REFERENCE

1. Summary Objective

The study will investigate the relationship between human rights and economics, in particular reflect about tensions and positive relationships. As regards the latter, the study will provide arguments and examples of how the application of human rights may positively impact on development and the quality of economic growth, whether in the shorter or in the longer term.

2. Background

The Nordic Trust Fund (NTF) is a $20 million multi-year, multi-donor facility under the supervision of a Bank-wide Steering Committee. It supports a program to help the Bank develop an informed view on how human rights relate to the Bank’s core mission of promoting economic growth and poverty reduction. Select learning and knowledge activities and sub-programs implemented by other Bank units seek to identify ways to systematize and improve the Bank’s involvement in Human Rights-related areas in analytical activities and operations.

As part of this effort, NTF is supporting a study on the economic case for integrating human rights into development policies and programs. The audience for the study is Bank staff, i.e. development practitioners in a number of sectors familiar with the economic and poverty aspects of their work and with an interest in, but limited knowledge of, human rights. The study should present in a coherent and concise manner how the human rights and the economist literature debate and analyze whether and how an economic justification for human rights can be made. What are the main arguments, whether normative or instrumental, for an emphasis on human rights, even in institutions mainly concerned with economic growth and transformation? What are the examples at the country level of good practices of integrating human rights and economic objectives.

This general theoretical as well as empirical study will be complemented by a study which aims to provide practical guidance on how national governments and donors have integrated human rights in sector policies. Both of the studies are desk studies, the latter provided with a vocabulary that seeks to clarify key concepts. Both studies will be used in the elaboration of an e-learning module for Bank staff.

3. Study Objective

The study will investigate the relationship between human rights and economics, in particular reflect about tensions and positive relationships. As regards the latter, the study will provide arguments and examples of how the application of human rights may positively impact on development and
the quality of economic growth, whether in the shorter or in the longer term. The study will provide examples of how human rights have been integrated into development policies and how this has affected economic policy, if at all. The study may therefore relate to how dilemmas and tensions have been resolved in practice.

4. Scope and Content of the Study

The study will comprise two parts.

1. Overview of debate/discourse

This section will provide a summary of key elements of the debate between economists and human rights proponents. This would likely include areas of convergence (inclusion of HR areas and principles in “regular” development work) and areas where disagreements remain (i.e., HR defenders’ views that economics is insufficient, economists’ views that HR cannot be used to set priorities).

This part would include a discussion on realism, resources and universalism. Do the human rights obligations and approaches lead to the mobilization of which are perceived as unrealistic by governments or duty-bearers, thus purporting unfeasible strategies and economic policies? How are choices made between universal obligations as regards e.g. economic and social rights, and policies that adopt a perspective of utilizing scarce resources in the most efficient way?

2. Macro/country level

The study should not only present dilemmas and disagreements, but also seek to describe how human rights concerns may be integrated practically into economic policies. The macro and country level will provide a review of the main arguments about whether and how inclusion of human rights in programs and policies influence macro and country level economic goals, i.e. growth, unemployment and the distribution of income, but also seek to present examples of complementary policies and priorities. It should include a theoretical review as well as a summary of key findings from empirical research.

This section would also include a discussion on equity, equality and non-discrimination. The World Development Report 2006 made the economic case for a stronger focus on equity and equality. Part of that discussion relates to non-discrimination and to a human rights discourse. Will a stronger focus on equality, fairness, and on non-discrimination be justified according to economic arguments? Can developing country examples be described where these concerns are successfully integrated in policies and programs?

The macro/country discussions will consider:

1. Balancing short and longer term perspectives: How does the time frame affect arguments and justifications. How are short term trade-offs balanced against a perspective of longer term gains?

2. Freedoms, redress, and empowerment. Does the rights perspective with its emphasis on individual capacity and its focus on dignity and freedom provide tools which are more effective in poverty reduction and in shaping equal opportunities than the development approaches to participation and social mobilization? Is the emphasis on freedoms and transparency instrumental in creating more sustainable growth?

3. Governance, freedoms and Integrity. What case can be made for the importance of civil and political rights in achieving good governance? The perspective in some institutions like the World Bank was that the sphere where Bank policies would overlap with human rights was as regards social rights. However, this perspective may increasingly be replaced by one where freedom rights and the protection of the individual are seen as vital in creating effective public services and accountability. Will the integration of these rights lead to better governance and to less corruption?

4. Are there growing indications from the country overviews that connects are increasingly being made between human rights realization and the implementation of the Millennium Development Goals?

5 Description of the Tasks to be Carried Out

The Consultant will carry out this assignment through a desk review or relevant source materials, research of libraries and on-line and consultations with relevant organizations and individuals. Work will include the analyzing and summarizing of the collected information, a write-up of a report and executive summary including a list of sources and comprehensive bibliography.

Outputs of the Study

The consultant will present two draft outputs for review including (i) a draft report including a two page executive summary and main text of no more than 40 pages (single spaced), excluding annexes; and (ii) a power-point presentation covering the key points and findings of the study, not
to exceed 30 slides. The consultant will then finalize both the report and the power-point presentation incorporating comments provided.

6 Time Frame and Deliverables

The consultant will spend up to 70 days on this assignment. Work will commence 16 September 2011.

The work will be conducted in three stages:
1. The consultant will submit an outline and a draft table of contents no later than by 23 September 2011.
2. The consultant will submit the draft report by 21 November for comment and feedback.
3. The consultant will deliver the final report which integrates inputs received on the draft by 15 December. In addition, a short PowerPoint presentation will be produced based on the final report which may eventually be developed into an e-learning module.

The consultant will provide support for a short workshop or seminar to showcase the findings of the report and present the draft e-learning module.

7 Qualifications/Selected Consultant

Consulting experience

The study should be undertaken by a consultant with solid human rights and economics knowledge derived from theory as well as empirical work of practice in the field.

8 Supervision

This work will be supervised by Hans-Otto Sano, Senior Program Officer at the Nordic Trust Fund Secretariat of the World Bank. Travels to and from Washington will be covered by the World Bank with one travel envisaged for each stage of the report.

Draft study table of contents (The more detailed TOC will be provided during stage 1 by the consultant):

- Executive summary
- Introduction
- III Possibly including country cases from the developing world. The case studies in extenso can be annexed to the report. The case studies will furnish more in depth knowledge on implementation of country policies and choices and possibly on achievements and emerging results.
- IV Concluding Perspectives
- Annexes
- Literature


Human Rights and Economics: Tensions and Positive Relationships