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Poverty

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POVERTY

Stephen P Marks

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Summary

This chapter addresses the challenge posed by poverty to the protection of human rights. Human rights define the entitlements considered necessary for a life of dignity in society, including the right to an adequate standard of living, that is, the right to be free from poverty. At this high level of abstraction, the elimination of poverty and realization of human rights are similar in that both clarify what needs to be done so that all human beings enjoy minimal standards of a decent existence. The context for this inquiry is the consensus regarding the imperative of poverty reduction and human rights realization, and the contested interpretations of the impact of globalization and financial crises on poverty and human rights. This context will be set out first, followed by a discussion of how international discourses on human rights and poverty diverge and, finally, how they converge.

1 Introduction

Human rights have emerged in national and international legal systems as a means of enhancing the lives of people in a position to claim their rights. But what do these rights mean for the one-fifth of humanity who live in misery and lack the basic necessities in terms of income, health, education, food, and employment? Without a minimal level of social and economic status, the extremely poor might be expected to see human rights as a luxury beyond their reach. For them the elimination of poverty is likely to be perceived as the highest priority in the human rights struggle.

There are deep political and even ideological issues involved in the relationship between the elimination of poverty and the struggle for human rights. It has been argued that ‘the present global institutional order is foreseeably associated with such massive incidence of

avoidable severe poverty, its (uncompensated) imposition manifests an on-going human rights violation—arguably the largest such violation ever committed in human history’.¹ Others would rely on the self-correcting and wealth-generating power of markets, such as those who claim that most of the credit for the success in recent decades in reducing poverty ‘must go to capitalism and free trade, for they enable economies to grow—and it was growth, principally that has eased destitution.’²

Others have argued that the development of a middle class who exercise economic freedoms under competitive capitalism without state interference should come first and then political freedom and democracy will follow. A survey of attitudes of lower and middle class people in 13 countries confirms the hypothesis that ‘[e]conomic well-being is linked with support for democracy’³ and ‘[m]iddle-class respondents often assign a higher priority to free speech than do those in the lower income group’.⁴ Although it may appear tautological, the survey found that ‘lower-income respondents were more likely than their wealthier fellow citizens to prioritize avoiding hunger and poverty’.⁵ Are the poor indifferent to human rights beyond the economic and social rights that enhance their economic well-being? Is the way out of poverty to provide economic freedoms under competitive capitalism and thus favour the classes that benefit most from economic growth on the assumption that it is on those classes that the affirmation of human rights must rely and that a rising tide (middle- and upper-class income) lifts all boats (including the poor)? Or is it the responsibility of the state to redistribute wealth so as to eliminate poverty and guarantee all human rights—including economic and social rights—to all, including the poor?

This chapter addresses the relationship between human rights and models of development in response to these questions. If, as the classical liberal model might suggest, human rights are a luxury that comes to people who have risen out of poverty, then it is likely to be limited to what Karl Marx called ‘bourgeois freedoms’, those that protect the interests of the middle class and the rich against those of the poor.⁶ The first challenge regarding the relationship between poverty and human rights is, therefore, to explore whether, and to what extent, human rights is a regime that is hostile to the interests of the poor. Such would be the case if a narrow interpretation of human rights consisting exclusively of negative freedoms (civil and political rights) were used, rather than the nearly universally accepted understanding

¹ Pogge, ‘Severe Poverty as a Human Rights Violation’ in Pogge (ed), *Freedom from Poverty as a Human Right: Who Owes What to the Very Poor?* (OUP, 2007) 52. See also Pogge, ‘Are We Violating the Human Rights of the World's Poor’, 14 *Yale Hum. Rts. & Dev. L.J.* 1 (2011) 1 – 33 and ‘Are We Violating the Human Rights of the World's Poor? Responses to Four Critics’, 17 *Yale Hum. Rts. & Dev. L.J.* (2014) 74-119.

² ‘Towards the end of poverty’, *The Economist* (1 June 2013) 11.

³ Pew Global Attitudes Project, *The Global Middle Class: Views on Democracy, Religion, Values, and Life Satisfaction in Emerging Nations* (Pew Research Center, 2009) 2. The countries in the study were Argentina, Brazil, Bulgaria, Chile, Egypt, India, Malaysia, Mexico, Poland, Russia, South Africa, Ukraine, and Venezuela. A World Bank study questions some of the methods of this study (Luis F. Lopez-Calva, Jamele Rigolini, and Florencia Torche, *Is there Such Thing as Middle Class Values? Class Differences, Values and Political Orientations in Latin America*. Policy Research Working Paper 5874, The World Bank Latin America and Caribbean Region Office of the Chief Economist, November 2011, p. 4.)

⁴ *The Global Middle Class*, n 2, 14.

⁵ *The Global Middle Class*, n 2, 15.

⁶ ‘None of the so-called rights of man, therefore, goes beyond the egoistic individual, beyond the individual as a member of bourgeois society, withdrawn into his private interests and separated from the community’. *Marx Engels Collected Works*. New York: International Publishers, 1975, vol. 3, p. 164)

of human rights as integrating civil, cultural, economic, political, and social rights.⁷ In other words, if human rights were limited to those rights that protect the interests and wealth of people with resources, then the poor would rightfully be suspicious of them.

While the narrow understanding may still have proponents today (as will be seen), the more widely accepted understanding of human rights is not only that they embrace economic, social, and cultural dimensions but that they also empower the poor in their struggle against the obstacles to their liberation from misery. As the former Secretary-General of Amnesty International put it, '[h]uman rights are claims that the weak advance to hold the powerful accountable, and that is why poverty is first and foremost about rights'.⁸ From this perspective—and this is the real challenge raised by this chapter—poverty is a human rights issue in terms of ends and means. The *end* of human rights is to ensure for all—rich and poor—equal rights, including those called 'economic, social and cultural rights', among which is, in the words of Article 25 of the Universal Declaration of Human Rights (UDHR), the right of everyone 'to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.' The *means* of human rights—awareness by rights-holders through learning and accountability of duty-bearers through laws, policies, and enforcement mechanisms—provide anti-poverty campaigns tools for mobilization and action. Unless and until these ends and means guide popular awareness and the functioning of institutions, poverty will pose a serious challenge to the protection, and perhaps the very concept, of human rights.

2 Human Rights, Poverty and Social Justice

At the outset, it is necessary to define the meaning of 'poverty' and explore its relationship to human rights, development, and social justice.

2.1 Poverty and its Significance for Human Rights

Development practitioners and scholars distinguish between extreme (or absolute) poverty and relative poverty. Extreme poverty is measured by economists as the number of people living on an income below a certain threshold, the current one being set by the World Bank at US\$1.90 (in 2011 prices, called Purchasing Power Parity or PPP). This threshold is the average of the national poverty lines in the poorest 15 countries. According to 2016 estimates, this number declined from 1.851 billion people (35% of the world population) in 1990 to 767 million (10.7%) in 2013 (\$1.90/day 2011 PPP).⁹ The Bank estimates that 'Global extreme poverty continues to fall rapidly', considering that 'Around 100 million people moved out of extreme poverty from 2012 to 2013, and since 1990, nearly 1.1 billion people have escaped extreme poverty'.

⁷ The equal importance to these categories of rights was reaffirmed in the Vienna Declaration and Programme of Action, A/CONF.157/23 (25 June 1993) para 5; World Summit outcome document, GA Res 60/1 (24 October 2005) para 9. See Marks, 'The Past and Future of the Separation of Human Rights into Categories', 24 *Maryland Journal of International Law* (2009), 208-241.

⁸ Khan, *The Unheard Truth: Poverty and Human Rights* (WW Norton, 2009) 21.

⁹ World Bank, 'Poverty and Equity Data', available at: <http://povertydata.worldbank.org/poverty/home>, accessed March 3, 2017.

The World Bank Group President Jim Yong Kim announced in April 2013 that ‘[w]e are at an auspicious moment in history when the successes of past decades and an increasingly favourable economic outlook combine to give developing countries a chance—for the first time ever—to end extreme poverty within a generation.’¹⁰ Thus, according to Kim, this goal can be reached by 2030 if sustained high growth is maintained in South Asia and Sub-Saharan Africa, inequality is curbed primarily through job creation, and potential new food, fuel, or financial crises and climatic disasters are averted or mitigated. The idea of ending poverty by 2030 has been supported by economists¹¹ and was formally adopted in the United Nations 2030 Agenda for Sustainable Development on September 25, 2015 as Sustainable Development Goal 1: ‘By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day’.¹² In measuring progress toward that goal, the World Bank is using the updated international poverty line of \$1.90 a day per person, in 2011 PPP terms.¹³

Relative poverty lines measure, for example, the bottom 10 per cent of the income distribution or a certain fraction of median income, such as the fortieth percentile. The Human Poverty Index ranks countries according to an index of several factors, which differ between developing and developed countries. While calculating the number of people living on extremely low income is a convenient way of identifying poverty, it is widely acknowledged that the definition of poverty is broader than income data. As the Nobel prize-winning economist Amartya Sen put it, ‘[the] identification of poverty with low income is well established, but there is, by now, quite a substantial literature on its inadequacies’.¹⁴ In addition to low income, Sen identifies these four types of contingencies that determine variations in the impact of poverty: individual physical characteristics, environmental conditions, social conditions, and behavioural expectations within the community.¹⁵ These characteristics vary by individual, family, and society such that a given level of income may result in one person living in poverty in terms of their capability to lead a life they value, compared to another with the same income but whose functionings (the term used by Sen for what you actually do) provide a higher level of happiness or well-being. In sum, ‘real poverty (in terms of capability deprivation) can easily be much more intense than we can deduce from income data’.¹⁶

Building on this challenge to monetary income as a sufficient measure of poverty, several alternative tools of measurement have been proposed, such as the *World Happiness Report* (first published in 2012), which ‘provides a broader indicator of human welfare than do measures of income, poverty, health, education, and good government viewed separately’.¹⁷ Another is the United Nations Development Programme (UNDP)’s *Human Development Report*, launched in 1990 and containing, since 2009, a Human Development Index (HDI), followed in 2010 by an Inequality-adjusted Human Development Index (IHDI), as well as the

¹⁰ World Bank, ‘World Bank Group President Calls for a World Free of Poverty’, Press Release (2 April 2013) available at: <<http://www.worldbank.org/en/news/press-release/2013/04/02/world-bank-group-president-calls-world-free-poverty>>.

¹¹ Eg ‘Towards the end of poverty’, *The Economist* (1 June 2013) 11, 22–24.

¹² Transforming our world: the 2030 Agenda for Sustainable Development. Resolution 70/1, adopted by the General Assembly on 25 September 2015, Target 1.1 available at <https://sustainabledevelopment.un.org/sdg1>

¹³ World Bank. 2016. *World Development Indicators 2016*. Washington, DC: World Bank. doi:10.1596/978-1-4648-0683-4, p. 1)

¹⁴ Sen, *The Idea of Justice* (Allen Lane, 2009) 254.

¹⁵ Ibid, 255–6.

¹⁶ Ibid, 256.

¹⁷ Helliwell, Layard and Sachs (eds.), *World Happiness Report 2016 Update*, Introduction, available at http://worldhappiness.report/wp-content/uploads/sites/2/2016/03/HR-V1_web.pdf.

Multidimensional Poverty Index (MPI), developed in cooperation with the Oxford Poverty and Human Development Initiative (OPHI)¹⁸. The MPI uses the same three dimensions as the HDI (health, education and standard of living). However, instead of life expectancy at birth as the indicator of health, mean years and expected years of schooling as the indicator of education, and gross national income per capacity as the indicator of standard of living, the MPI uses ten indicators covering, respectively, nutrition and child mortality, years of schooling and children enrolled, and a combination of access to electricity, drinking water and improved sanitation, cooking fuel, dirt or dung floor, and assets relating to information, mobility or livelihood.¹⁹ The MPI thus defines the poor as those suffering deprivations which poor households typically face. According to UNDP, in 2015 ‘Almost 1.5 billion people in the 101 developing countries covered by the MPI—about 29 percent of their population — live in multidimensional poverty — that is, with at least 33 percent of the indicators reflecting acute deprivation in health, education and standard of living’.²⁰

UN human rights bodies, in particular the Committee on Economic, Social and Cultural Rights, share the critique of an income-based definition of poverty. In its statement on poverty, the Committee endorsed a ‘multi-dimensional understanding of poverty, which reflects the indivisible and interdependent nature of all human rights’ and defined poverty ‘as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living’.²¹

Whether measured in relative or absolute terms or in terms of capabilities, the problem of global poverty is staggering in its magnitude and affects both developing and developed countries. It has attracted the attention of the human rights community for decades, if not centuries. For Jean-Jacques Rousseau ‘it is plainly contrary to the law of nature . . . that the privileged few should gorge themselves with superfluities, while the starving multitude are in want of the bare necessities of life’.²²

In preparation for the adoption in 1948 of the UDHR, the UN Educational, Scientific and Cultural Organization (UNESCO) convened a Committee on the Philosophical Principles of the Rights of Man to reflect on an eventual declaration of human rights, which stated, ‘one group of rights is essentially connected with the provision of means of subsistence, through [one’s] own efforts or, where they are insufficient, through the resources of society’.²³ In 1968, on the occasion of the twentieth anniversary of the UDHR, the International Conference on Human Rights proclaimed that ‘[t]he widening gap between the economically developed and developing countries impedes the realization of human rights in the international

¹⁸ University of Oxford, OPHI, Global Multidimensional Poverty Index, available at <http://www.ophi.org.uk/multidimensional-poverty-index/>

¹⁹ UNDP, *Human Development Report 2015. Work for Human Development*, Technical Notes, 9. Available at http://hdr.undp.org/sites/default/files/hdr2015_technical_notes.pdf

²⁰ UNDP, Multidimensional Poverty Index (MPI), available at <http://hdr.undp.org/en/content/multidimensional-poverty-index-mpi>. See also *Human Development Report 2016* (UNDP 2016) 54. The total population living in poverty is sometimes called ‘the bottom billion’, as in Collier, *The bottom billion: Why the poorest countries are failing and what can be done about it* (Oxford University Press 2008).

²¹ CESCR, Statement on Poverty and the ICESCR, E/C.12/2001/10 (10 May 2001) para 8.

²² Rousseau, *The Social Contract and Discourses* (DGH Cole tr, 1782, Campbell, 1973) 117.

²³ UNESCO, *Human Rights: Comments and Interpretations. A Symposium Convened by UNESCO*, UNESCO/PHS/3, (rev) Appendix II (25 July 1948) 11. The published version of the work of the Committee appears in Maritain, *Universal Declaration of Human Rights: Comments and Interpretations* (UNESCO, 1949).

community’.²⁴ Thus, the basic idea that poverty and underdevelopment are human rights concerns has been part of the rhetoric of human rights since the founding of the contemporary human rights movement and even before. The UN High Commissioner for Human Rights declared in 1998 that extreme poverty was the worst violation of human rights.²⁵ The issue had already been raised by the Commission on Human Rights, which in 1990 requested its Sub-Commission to consider the relationship between human rights and poverty.²⁶ The Sub-Commission appointed a Special Rapporteur on human rights and extreme poverty, whose report was published in 1996.²⁷ In a related development, the High Commissioner published in 2001 a 60-page document setting out basic principles of a human rights approach to: (1) the process of formulating a poverty reduction strategy; (2) determining the content of a poverty reduction strategy; and (3) guiding the monitoring and accountability aspects of poverty reduction strategies.²⁸

A mandate of Independent Expert on Extreme Poverty and Human Rights was created in 1998. The second mandate-holder, Arjun Sengupta, defined extreme poverty as ‘people suffering from income poverty (being below an agreed level of minimum disposable income or expenditure required for leading a sustainable life) and people suffering from human development poverty (without access to, or availability of, certain basic goods and services to make it possible for them to lead a meaningful life) as well as people in social exclusion (without basic security to lead an adequate social existence, dependent on the structure of social relationships)’.²⁹

In preparing the guiding principles on extreme poverty and human rights, the third Independent Expert on extreme poverty and human rights, Magdalena Sepúlveda Carmona, adopted the 2001 definition of the Committee on Economic, Social and Cultural Rights quoted above³⁰ for poverty and Sengupta’s 2008 definition of extreme poverty. She added that:

Persons living in poverty are confronted by the most severe obstacles – physical, economic, cultural and social – to accessing their rights and entitlements. ... Persons experiencing extreme poverty live in a vicious cycle of powerlessness, stigmatization, discrimination, exclusion and material deprivation, which all mutually reinforce one another.³¹

²⁴ Proclamation of Teheran, Final Act of the International Conference on Human Rights, Teheran, A/CONF.32/41, 3 (13 May 1968) para 12.

²⁵ ‘I am often asked what is the most serious form of human rights violations in the world today, and my reply is consistent: extreme poverty.’ UNDP, *Poverty Reduction and Human Rights: A Practice Note* (UNDP, 2003) iv.

²⁶ CHR, Human Rights and Extreme Poverty, E/CN.4/Res/1990/15 (23 February 1990) 5.

²⁷ Leandro Despouy, *The Realization of Economic, Social and Cultural Rights: Final report on human rights and extreme poverty, submitted by the Special Rapporteur*, UN Doc E/CN.4/Sub.2/1996/13 (28 June 1996).

²⁸ Hunt, Nowak, and Osmani, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies* (OHCHR, 2002). See also Hunt, Nowak, and Osmani, *Human Rights and Poverty Reduction Strategies: Human Rights and Poverty Reduction: A Conceptual Framework* (OHCHR, 2003).

²⁹ *Report of the independent expert on the question of human rights and extreme poverty, Arjun Sengupta*, UN Doc. A/HRC/7/15, 28 February 2008, para. 31.

³⁰ CESCR, n 21.

³¹ *Final draft of the guiding principles on extreme poverty and human rights, submitted by the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona*, UN Doc. A/HRC/21/39, 18 July 2012, para. 4.

With these definitions of poverty as related to human rights, we now turn to the relationship between human rights and social justice.

2.2 Development, Social Justice, and Human Rights

A definitional issue that should be clarified at the outset is the overlap and distinction between human rights and ‘social justice’. While social justice is part of the vocabulary of both development and human rights, the focus of much of the social justice movement is to challenge unjust structures (structural violence); support communities of poor, vulnerable, and marginalized people, using methodologies of community development and empowerment; and challenge the processes of international economic integration (‘globalization’) by which the rich get richer and the poor get poorer. A human rights approach to addressing poverty may well find merit in such approaches but would focus more on an accountability framework for pursuing social justice and refer to explicit human rights norms rather than a broad appeal to notions of redistributive or egalitarian justice.

In one sense, human rights is narrower than the general commitment to social justice in that it is based on specific norms agreed upon as enforceable human rights of individuals and groups rather than on structural reform of societies. It is at the same time more general insofar as it protects rights for all, not just the poor. Therefore, social justice, which has various definitions, is used here in its focus on reducing inequalities and eliminating poverty, whereas human rights is concerned with poverty among other problems that affect people’s capacity to lead meaningful lives.

3 Divergence of Poverty Reduction and Human Rights Agendas

To a certain extent, the divergence in perspective between the human rights and poverty reduction discourses can be explained by the dominance of law, political science, and philosophy among those who theorize about and develop policies on human rights and the dominance of economics and planning among those who theorize about and develop poverty reduction strategies. Some of these divergent ways of thinking are explored in Section 3.1, which examines how economists think about poverty and human rights. Section 3.2 analyses the thinking of governors of central banks and ministers of finance.

3.1 Resistance to Human Rights Discourse in Economic Thinking

Economists and economic decision-makers only rarely invoke human rights concepts, although many are open to related notions. Some economists tend to consider their professional role as value-neutral, offering the tools of analysis to be applied to policies set by others. Other economists address moral dimensions of economic issues, but avoid human rights language. Jeffrey Sachs proposed to end extreme poverty by 2025 through a nine-step programme that he places in the historical trajectory of the ending of slavery, colonialism, segregation, and apartheid. Although all of these were human rights movements, he does not call them that.³² He does not explicitly make the link between the human rights causes of the past and the current cause of poverty elimination. William Easterly, on the other hand, is quite explicate in attributing the failure of many poverty-reduction projects to the failure of economists to break out of their technocratic straightjackets and to apply human rights. ‘[P]overty is really about a

³² Sachs, *The End of Poverty: Economic Possibilities for Our Time* (Penguin Press, 2005) 360–8.

shortage of rights', he writes in *The Tyranny of Experts: Economists, Dictators, and the Forgotten Rights of the Poor*.³³ For him, 'the poor should have the same rights as the rich'.³⁴

Economists often apply notions of minimum standards, transparency, participation, and the like in the context of development policy, without relating them to a human rights framework. Thus, in the economics literature on international trade, there has been much discussion about appropriate mechanisms to promote labour standards, including addressing child labour in developing countries.³⁵ Likewise, the literature on public services has highlighted how a lack of transparency, insufficient accountability, and corrupt government officials will increase social wastage and distort economic and service delivery outcomes.³⁶ Other research has focused on matters of 'process', correlating economic performance with democracy and the rule of law.³⁷

Easterly is an exception, compared to more typical analyses reflecting the divergence between human rights and economic thinking insofar as the authors grapple with many of the same concerns as are used in human rights (fairness, accountability, transparency, labour standards, child labour, democracy, rule of law) without reference to the relevant standards contained in international human rights instruments. Nobel prize-winning economist Joseph Stiglitz, in his influential book *Making Globalization Work*, contrasted how at the national level 'we argue for and against different policies on the basis of whether they are just, whether they hurt the poor, whether their burden falls disproportionately on those less well off', whereas in the international arena, 'not only do we fail to do the analysis, we almost never argue for a policy on the basis of fairness'.³⁸ He does allude in his conclusion to the UDHR but only as something the founding fathers of the USA would be pleased with, rather than as the inaugural document to a rather extensive set of international instruments relevant to reducing what he calls the 'gap between economic and political globalization'.³⁹

Furthermore, there are many points of tension between mainstream economic thinking and human rights-centred approaches when it comes to defining development goals or implementing anti-poverty policy. One such point of tension is that growth-oriented economic analysis tends to disregard the impact of income on the realization of such human rights as the rights to health, education, and cultural and political freedoms. Economic analysis and policy interventions are fundamentally about making *choices* among alternatives in a world of limited resources. In contrast, the language of human rights (and associated *obligations* towards bearers of rights) appears less forgiving about choices and options. Rights language tends to be used by economists when it enhances, rather than limits choices. As Sen has said:

In economics the concept of rights is often invoked. . . however. . . [n]o intrinsic importance is attached to the existence or fulfilment of rights, and they have been

³³ William Easterly, *The Tyranny of Experts: Economists, Dictators, and the Forgotten Rights of the Poor* (New York, Basic Books, 2013) 7.

³⁴ *Ibid*, 340.

³⁵ Eg Eric V. Edmonds, Child Labor, in T. Paul Schultz, John Strauss (eds.) *Handbook of Development Economics*, Volume 4, (Elsevier, 2007) 3609-3709.

³⁶ Eg Susan Rose-Ackerman (ed.) *International Handbook on the Economics of Corruption* (Edward Elgar Publishing, 2007); .

³⁷ Eg Rigobon and Rodrik, *Rule of Law, Democracy, Openness and Income: Estimating the Interrelationships* (Kennedy School of Government, Harvard University, 2004); World Bank, *World Development Report 2017: Governance and the Law*. (World Bank. 2017)..

³⁸ Stiglitz, *Making Globalization Work* (WW Norton, 2006) 278.

³⁹ *Ibid*, 292.

judged by their ability to achieve good consequences, among which the fulfilment of rights have not figured.⁴⁰

The Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, underscored the divergence of perspective in his 2015 report on the World Bank. He described the Bank as, for most purposes, ‘a human rights-free zone’ that is ‘unable to engage meaningfully with the international human rights framework’.⁴¹ A recent example is the World Development Report 2017 of the World Bank devoted to governance and the rule of law. Human rights are mentioned as one of many experiences with the law but not as part of the Bank’s approach to ending poverty, as Alston argued.⁴² The report is premised on the idea, expressed by the Bank’s president in his foreword, that ‘Without paying greater attention to stronger governance, the World Bank Group’s goals of ending extreme poverty and boosting shared prosperity, as well as the transformational vision of the United Nations’ broader Sustainable Development Goals, will be out of reach’.⁴³

Another point of tension between human rights and economic thinking is that, even when the importance of goals other than that of economic growth is recognized in economic analysis, there is a temptation to consider civil and political rights as optional goods that can await a sufficient level of economic growth. The holistic human rights approach would not accept such a trade-off. Economic literature has come down on both sides of this issue. There are scholarly articles, both theoretical and empirical, that suggest that priority attention to political rights, for instance, can make a positive contribution to economic growth.⁴⁴ Others suggest that economic growth is more likely to pave the way for institutional, including political, development—and that prioritizing political freedom may not be the best strategy for developing countries to pursue economic growth.⁴⁵ There seems to be little doubt that political freedoms are positively related to economic growth and that rising living standards foster democratic freedoms, while declining living standards subvert them. However, as Benjamin Friedman has said:

That there is usually more freedom in countries with higher per capita incomes does not by itself reveal whether having a high income leads a society to value and therefore provide these freedoms, or whether having widespread rights and liberties enables a country to achieve a higher level of income—in other words, whether a high material standard of living fosters freedom, or freedom facilitates economic success.⁴⁶

The more interesting question is how adherence to human rights principles can instrumentally contribute to the effectiveness of economic policy interventions, including those aimed at growth and efficiency.

Thus, there is no simple answer to the question of how economists think about poverty and human rights. Some attempt to be value-neutral; some favour eliminating poverty through redistribution; some apply the concept of development as freedom; but most favour raising the

⁴⁰ Sen, *On Ethics and Economics* (Blackwell, 1988) 49.

⁴¹ Report of the Special Rapporteur on extreme poverty and human rights, UN Doc. A/70/274, 4 August 2015, para. 68.

⁴² World Bank, n 37.

⁴³ *Ibid*, xiii.

⁴⁴ Eg Kaufmann, ‘Human Rights, Governance, and Development: An Empirical Perspective’ (2006) 8 *Development Outreach* 15, 15–20 and references cited therein.

⁴⁵ Eg Glaeser *et al.*, *Do Institutions Cause Growth?* (National Bureau of Economic Research, 2004).

⁴⁶ Friedman, *The Moral Consequences of Economic Growth* (Alfred A Knopf, 2005) 314.

condition of the poor through market-based growth. The latter group tends to dominate in high-level decision-making among central bankers and treasury departments.

3.2 The Perspective of Central Banks and Ministries of Finance

The divergence between human rights and poverty reduction agendas is perhaps best illustrated by the Group of Twenty (G20).⁴⁷ Founded in 1999, it claims to represent around two-thirds of the world's population and 80 per cent of world gross domestic product.⁴⁸ It describes itself as 'the premier forum for international cooperation on the most important issues of the global economic and financial agenda',⁴⁹ which do not include human rights. The G20 finance ministers and central bank governors meet once a year. Typical of their approach is the Statement on Global Development Issues adopted at their meeting in China in 2005. Neither 'human rights' nor 'human development' is mentioned in that document and 'good governance' is only mentioned in relation to sound economic policies and accountability. The statement does say, 'we are committed to strengthening the dialogue on varying development philosophies, strategies, and policies, from which all countries can benefit'.⁵⁰ Human rights did not fare any better at the meeting in Australia in 2006 or in South Africa in 2007, which make no mention of 'human rights' or even 'right', and the word 'human' is never attached to development (it is used once in 'human capital').

Following the 2008 financial crisis, the G20 began meeting at the summit level of heads of state and government. The G20 acknowledged 'the human dimension to the crisis', as it was called in the Global Plan for Recovery and Reform, adopted by the Second G20 Leaders' Summit in London in 2009. Once again, there was no reference to human development or human rights, only the rather feeble commitment 'to support those affected by the crisis by creating employment opportunities and through income support measures'.⁵¹ The Pittsburgh Summit the same year expressed the underlying philosophy of the summit: 'the only sure foundation for sustainable globalisation and rising prosperity for all is an open world economy based on market principles, effective regulation, and strong global institutions'.⁵² Critiquing the London communiqué of the G20, two human rights scholars noted:

The crisis, its human impact, and the proposed solutions are also issues of international human rights law—and in particular of state obligations to take collective action to create a global economic system amenable to the fulfilment of basic rights to subsistence, security, and freedom.⁵³

⁴⁷ The members of the G20 are the finance ministers and central bank governors of 19 countries: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, UK, and USA, along with the European Union. Senior officials of the International Monetary Fund (IMF) and the World Bank participate in G20 meetings.

⁴⁸ Information available at https://www.g20.org/Webs/G20/EN/G20/Participants/participants_node.html.

⁴⁹ See: <https://www.g20foundation.org/g20/>.

⁵⁰ G20 Statement on Global Development Issues (Xianghe, Hebei, China, 2005) para 3, available at: <http://www.g20.utoronto.ca/2005/2005development.html>.

⁵¹ The Global Plan for Recovery and Reform, para 26, available at: <http://www.g20.utoronto.ca/2009/2009communique0402.html>.

⁵² G20 Leaders Statement: The Pittsburgh Summit (Pittsburgh, 2009), paras 34 and 38, available at: <http://www.g20.utoronto.ca/2009/2009communique0925.html>.

⁵³ Fukuda-Parr and Salomon, 'A Human Rights Analysis of the G20 Communique: Recent Awareness of the "Human Cost" Is Not Quite Enough,' Carnegie Council online, available at: http://www.carnegiecouncil.org/publications/ethics_online/0033.html.

The focus on growth continued, including under the Russian presidency in 2013, which organized the agenda around ‘three overarching priorities, aimed at starting the new cycle of economic growth: [g]rowth through quality jobs and investment; [g]rowth through trust and transparency; [g]rowth through effective regulation’.⁵⁴ In contrast, a group of independent researchers called Civil 20 prepared, for the 2013 St Petersburg summit, ‘an independent analysis and proposals for a dialogue between a wide range of stakeholders and the G20 governors on the G20 concerted policies and actions to improve economic equality within their countries and beyond.’⁵⁵ In its report, Civil 20 included among the ‘Common Principles and Policies for All’ the following: ‘good governance and basic human rights, specifically, universal access to the rule of law, anti-corruption, anti-tax evasion, and equal access to essential food, water, health care and rights of movement for citizens within the country’.⁵⁶

Subsequent G20 summits, such as Brisbane, Australia, in 2014; Antalya, Turkey, in 2015; and Hangzhou, China, in 2016, followed the trend of a strong focus on growth with vague references to equality and sustainability and no direct mention of human rights or human development. The Brisbane communiqué alluded to ‘poverty elimination’ but in the context of reducing the global average cost of transferring remittances.⁵⁷ When human rights is mentioned, it is ambiguous, such as in the Hangzhou Communiqué: ‘we will reinforce the G20’s efforts to enhance international cooperation against corruption, while fully respecting international law, human rights and the rule of law as well as the sovereignty of each country’.⁵⁸ In the run-up to the 2017 Summit in Hamburg, Germany, the C20 group of NGOs, meeting in February 2017, included the following among its policy recommendations.

The growing authoritarianism in many G20 countries is a clear indicator: governments pursue the wrong policies which lack popular and democratic support. A government with the right policies does not need to become a police state or violate human rights in order to implement them.⁵⁹

A similar focus on growth and markets as the solution to poverty characterizes the pronouncements of the G8 (G7 after suspension of Russia in 2014). Although it promotes ‘stronger long-term global growth’, the G7 also refers to its ‘common values and principles, including freedom, democracy, the rule of law and respect for human rights’.⁶⁰

These pronouncements of the G7 and the G20 illustrate an ambiguity regarding human rights and poverty. The confrontation is not between the morally indignant voices of the poor against a band of greedy capitalists meeting in some boardroom in Washington or London.

⁵⁴ Priorities of Russia’s G20 presidency in 2013, available at: <http://www.g20.org/docs/g20_russia/priorities.html>.

⁵⁵ G20 Research Group at the University of Toronto and the International Organizations and International Cooperation Institute of the National Research University Higher School of Economics, *Sustained and Balanced Growth Requires Equitable Policies, Draft Report*, available at: <<https://www.hse.ru/data/2013/05/14/1299928420/Equality%20Report%20final.pdf>>.

⁵⁶ Ibid, 28.

⁵⁷ ‘G20 Leaders’ Communiqué Brisbane Summit, 15-16 November 2014, para. 11, available at <http://www.g20australia.org/sites/default/files/g20_resources/library/brisbane_g20_leaders_summit_communique.pdf>.

⁵⁸ ‘G20 Leaders’ Communiqué Hangzhou Summit, 4-5 September 2016, para. 22, available at <https://www.g20.org/Content/DE/_Anlagen/G7_G20/2016-09-04-g20-kommunique-en.pdf?__blob=publicationFile&v=6>.

⁵⁹ See <<http://civil-20.org/globalization-there-are-a-thousand-alternatives/>>.

⁶⁰ ‘G7 Ise-Shima Leaders’ Declaration G7. Ise-Shima Summit, 26-27 May 2016, available at <<http://www.mofa.go.jp/files/000160266.pdf>>.

Many in the anti-globalization movement do indeed claim to speak for the poor, but so do the representatives of the G20 governments, which include India and China, as well as Argentina, Mexico, South Africa, and the European Union. These are not the forces of evil against the forces of good. They are the principal actors in the global economy and they send contradictory messages about the proposition that human rights have anything to do with poverty. It is little wonder, therefore, that human rights do not figure prominently among the approaches to poverty in vogue in policy pronouncements on the international financing of development. The critique by the human rights community of the G20 approach is found, among others in the work of ‘RightingFinance’, which noted in 2011 that ‘human rights considerations have no place in their discussions or statements’ but that ‘their actions have significant impacts on the realization and enjoyment of human rights, and the members of the G20 are Nation-states that cannot disregard their human rights obligations in any forum, including multilateral economic institutions.’⁶¹ RightingFinance has continued to address the human rights shortcomings of a wide range of international finance issues, including national development banks, vulture funds, private market financed infrastructure, financing for development and tax policy.⁶²

However, the situation is changing progressively as human rights specialists learn more about the economic analyses of poverty and development economists learn about the compatibility of their goals with those of human rights and the instrumental value of human rights for poverty reduction. These trends have opened the space—still fairly restricted—for the convergence of human rights and poverty reduction agendas.

4 Convergence of Poverty Reduction and Human Rights Agendas

Section 3 illustrated several ways in which human rights concerns diverge from those of development and poverty reduction. This section addresses the convergence—or at least the trends that demonstrate mutually reinforcing relations—between human rights and anti-poverty agendas, beginning in Section 4.1 with some economic thinking that is congruent with human rights and continuing in Section 4.2 with policies to combat poverty using human rights tools.

4.1 Trends in Economic Thinking Congruent with Human Rights

Apart from the economic studies referred to already, which deal with fairness, transparency, and participation, there is another strand of development economics that acknowledges human rights as providing goals for development: the development ethics movement. The International Development Ethics Association (IDEA), for example, defines its members as ‘a cross-cultural group of philosophers, social scientists, and practitioners who apply ethical reflection to global development goals and strategies and to North/South relations’. They advocate a normative approach to development-based theories ‘that appeal to social justice, human rights, basic needs, and theological understandings of the human condition’.⁶³ In 1989, IDEA adopted the Mérida Declaration, which enumerates among their guiding ethical principles ‘the absolute respect for the dignity of the human person, regardless of gender, ethnic group, social class, religion, age or nationality’.⁶⁴ Leading development economists, such as

⁶¹ Rightingfinance, ‘The Group of 20, Financial Regulation and Human Rights’ available at: <<http://www.rightingfinance.org/?p=97>>.

⁶² See its publications at <<http://www.rightingfinance.org/?cat=9>>.

⁶³ See: <<http://developmentethics.org/about-2/what-is-development-ethics/>>.

⁶⁴ See: <<http://developmentethics.org/announcements/declarations-2/>>.

David A Crocker, Paul Streeten, and especially Denis Goulet, spearheaded this movement. Human rights and poverty are central to their concerns, although human rights as such is rarely an operative concept in their work.

Another major exception to the divergence between human rights and economic thinking is the ‘human development and capabilities’ approach, theorized primarily by Amartya Sen and Martha Nussbaum. This approach has been embraced by UNDP’s *Human Development Report* and is promoted by an association of academics and practitioners called the Human Development and Capability Association (HDCA). The openness to human rights of this perspective is due to the centrality of the concept of development as freedom and expanding choices. In the words of the *Human Development Report*:

Human development shares a common vision with human rights. The goal is human freedom. And in pursuing capabilities and realizing rights, this freedom is vital. People must be free to exercise their choices and to participate in decision-making that affects their lives. Human development and human rights are mutually reinforcing, helping to secure the well-being and dignity of all people, building self-respect and the respect of others.⁶⁵

The farther one moves from trade, finance, and treasury departments of governments, including in their multilateral settings of the WTO and the G20, and the closer one gets to bilateral and multilateral fora for addressing poverty, the more relevant human rights considerations become. This continuum runs from the G20 to the World Bank Group and regional development banks to broad-based deliberative bodies (such as the global conferences and summits, and the UN Economic and Social Council), to development aid agencies and programmes (such as the UK Department for International Development (DFID) and UNDP), to UN human rights bodies (such as the Human Rights Council and the Third Committee of the General Assembly), to human rights treaty regimes and special procedures. To illustrate the gap, compare the various G20 communiqués discussed in Section 3.2, representing one end of this continuum, with the statement of the Committee on Economic, Social and Cultural Rights on poverty, cited in Section 2.1, representing the other end. In that statement, the Committee regretted ‘that the human rights dimensions of poverty eradication policies rarely receive the attention they deserve. This neglect is especially regrettable because a human rights approach to poverty can reinforce anti-poverty strategies and make them more effective.’⁶⁶

The World Conference on Human Rights, in its 1993 Vienna Declaration, stated that ‘[t]he existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights; its immediate alleviation and eventual elimination must remain a high priority for the international community’.⁶⁷ It further affirmed:

[E]xtreme poverty and social exclusion constitute a violation of human dignity and . . . urgent steps are necessary to achieve better knowledge of extreme poverty and its causes, including those related to the problem of development, in order to promote the human rights of the poorest, and to put an end to extreme poverty and social exclusion and to promote the enjoyment of the fruits of social progress. It is essential for States to foster participation by the poorest people in the decision-making process by the

⁶⁵ UNDP, *Human Development Report 2001*, 9. See also Sanjay Reddy, Economics and Human rights: A Non-Conversation, *Journal of Human Development and Capabilities*, Vol. 12, No. 1, February 2011, 64-72.

⁶⁶ CESCR, n 21, para 2.

⁶⁷ Vienna Declaration n 7, para 14.

community in which they live, the promotion of human rights and efforts to combat extreme poverty.⁶⁸

The test of this commitment to a human rights-based approach to poverty reduction is the extent to which it has been translated into the policies and practices of development.

4.2 Human Rights Approaches in Development Policies and Practices

Human rights have become part of the international development agenda, including poverty reduction, through the introduction of human rights approaches into UN development cooperation, poverty reduction strategies, the 2030 Development Agenda and bilateral development programmes. Each of these is examined in this section, before turning to the most systematic approach to integrating poverty and human rights, namely by considering development itself as a human right.

4.2.1 UN development cooperation

In 2003, representatives from across the UN defined a Common Understanding on a Human Rights-based Approach to Development Cooperation.⁶⁹ This document became a standard reference for translating normative human rights commitments of member states into development cooperation policies and projects of UN agencies, funds, and programmes. In his report *Strengthening of the United Nations: An Agenda for Further Change*, the UN Secretary-General called human rights ‘a bedrock requirement for the realization of the Charter’s vision of a just and peaceful world’. He listed, among 36 actions to realize this vision, ‘Action 2 Global Programme on human rights strengthening’, which integrated human rights into humanitarian, development, and peacekeeping work throughout the UN system.⁷⁰ Until 2009, it supported over 60 UN country teams and their national partners in capacity-building to integrate human rights into their work,⁷¹ including issuing the UN Common Learning Package on Human Rights-Based Approach (HRBA).⁷² In late 2009, the UN Development Group Human Rights Mainstreaming Mechanism (UNDG-HRM) replaced Action 2 with the overarching objective ‘to further institutionalize human rights mainstreaming efforts in the UN development system and to strengthen system-wide coherence’,⁷³ including a UN Practitioners Portal on Human Rights Based Approaches to Programming (HRBAP)⁷⁴ and a Multi-Partner Human Rights Mainstreaming Trust Fund.⁷⁵ UNDG-HRM was replaced in January 2015 by the UN Development Group’s Human Rights Working Group (UNDG-HRWG), consisting of 18 agencies of the UN system, which continues “to integrate human rights in the UN’s

⁶⁸ Ibid, para 25.

⁶⁹ UN Development Group, ‘The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among UN Agencies’ (7 May 2003), available at: <http://www.unescobkk.org/fileadmin/user_upload/appeal/human_rights/UN_Common_understanding_RBA.pdf>.

⁷⁰ *Strengthening of the United Nations: An Agenda for Further Change*, A/57/387 (9 September 2002).

⁷¹ *Report of the UN High Commissioner for Human Rights*, A/64/36 (6 August 2009), para 93.

⁷² Available at: <<http://www.undg.org/index.cfm?P=531>>.

⁷³ UN Development Group, *UNDG Human Rights Mainstreaming Mechanism Summary of the Operational Plan 2011-2013* (18 October 2011) 2.

⁷⁴ <<http://hrbportal.org>>.

⁷⁵ <<http://mptf.undp.org/factsheet/fund/HRM00>>.

development work'.⁷⁶ The UNDG-HRWG continues to disseminate the UN Inter-agency common learning package (CLP) on human rights-based approach (HRBA), which seeks to guide UN staff in applying a HRBA to UN common country programming.

4.2.2 Poverty reduction strategies

Since the Asian financial crisis in the 1990s, there was a rethinking in the World Bank and the IMF of their earlier policies of structural adjustment, sometimes taking into account the human rights impact of such policies, but mostly to avoid social impacts that reduce the productivity of workers and the stability of regimes. Health and education are frequently cited as suffering the most from structural adjustment programmes. In 1999, IMF and the World Bank launched the Poverty Reduction Strategy process as 'a comprehensive country-based strategy for poverty reduction' initially linked to debt reduction but delinked in 2015 and involving the preparation of Economic Development Document (EDD).⁷⁷

In a concept note, the High Commissioner for Human Rights drew the World Bank's attention to the value of 'linking a Poverty Reduction Strategy to a universal normative framework and State obligations emanating from the human rights instruments' and sustaining them 'with enhanced accountability of the relevant stake-holders'.⁷⁸ These concepts were reflected in the 'Guiding Principles on extreme poverty and human rights', adopted by the Human Rights Council on 27 September 2012.⁷⁹ They are designed for policy-makers and other actors to align public policies with international law and the objective of poverty reduction.

4.2.3 Human Rights in the 2030 Development Agenda

Following the commitments made by heads of state at the Millennium Summit in 2000, all governments and international institutions set specific targets for poverty reduction in the Millennium Development Goals (MDGs). While these goals served to guide development planning, they tended to ignore commitments made by states to human rights and the rule of law. The High Commissioner for Human Rights drew attention to the relationship between the MDGs and human rights by disseminating charts on the intersection of human rights treaty obligations and the MDGs and an exhaustive analysis of how human rights can contribute to the MDGs.⁸⁰ Similarly, the UNDP published a primer called *Human Rights and the Millennium Development Goals: Making the Link*,⁸¹ and various national development agencies published their own human rights approaches to MDGs.⁸²

⁷⁶ UNDG Human Rights Working Group (HR-WG), Terms of Reference, 5 December 2014, available at <https://archive.undg.org/wp-content/uploads/2015/02/UNDG-Human-Rights-Working-Group-TORs-5Dec2014.pdf>.

⁷⁷ IMF Factsheet, available at: <http://www.imf.org/external/np/exr/facts/prsp.htm>.

⁷⁸ OHCHR, Comments on the Concept Note. Joint World Bank and IMF Report on Poverty Reduction Strategy Papers—Progress in Implementation 2005 PRS Review, available at: http://siteresources.worldbank.org/INTPRS1/Resources/PRSP-Review/un_ohchr.pdf.

⁷⁹ HR Council Res 21/11.

⁸⁰ OHCHR, *Claiming the MDGs: A Human Rights Approach* (2008).

⁸¹ UNDP, *Human Rights and the Millennium Development Goals: Making the Link* (Oslo Governance Centre, 2007).

⁸² Eg the Swedish International Development Agency (available at: <http://www.sida.se/English?About-us/Organization/Policy/>); the UK's DFID (available at: <https://www.gov.uk/government/organisations/department-for-international-development/about>); the US MCC (<http://www.mcc.gov/pages/about>); Canada's CIDA (available at: <http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/en/JUD-13173118-GPM>); and Denmark's DANIDA (available at: <http://um.dk/en/danida-en/goals/mdg/>).

As the 2015 end-date for the MDGs approached, insightful reflections on human rights and the MDGs—and, therefore, on human rights and poverty—focused on integrating human rights more meaningfully into the post-2015 development agenda.⁸³ The 2012 UN Conference on Sustainable Development (Rio+20) affirmed ‘the importance of. . . respect for all human rights, including the right to development and the right to an adequate standard of living’⁸⁴ along with eight other references to human rights. The UN Secretary General appointed a High-Level Panel of Eminent Persons on the Post-2015 Development Agenda⁸⁵ and a UN System Task Team recommended a ‘vision for the future that rests on the core values of human rights, equality and sustainability’.⁸⁶

The final report of the High-Level Panel, was not based on the Task Team’s core values, but rather on ‘five big, transformative shifts’, including, as part of the first shift ‘Leave no one behind’, ensuring ‘that no person—regardless of ethnicity, gender, geography, disability, race or other status—is denied universal human rights and basic economic opportunities’.⁸⁷ Occasional human rights-related observations appear in other ‘shifts’,⁸⁸ including the following statement: ‘We envision a world where the principles of equity, sustainability, solidarity, respect for human rights and shared responsibilities in accordance with respective capabilities, has been brought to life by our common action.’⁸⁹ The language becomes more directly relevant to a human rights-based approach to poverty reduction in Annex II, which affirms that the rights in the UDHR ‘form the foundations of human development.’⁹⁰

Sakiko Fukuda-Parr remarked that the MDGs ‘do not reflect the meaning of poverty as an affront to human dignity in the human rights and capabilities perspective’.⁹¹ A similar position was taken by UN official and scholar Mac Darrow, who proposed that the ‘international human rights framework can serve a vital purpose in helping to ensure that the negotiations towards 2015 focus on legitimate *ends* of human development, corresponding to internationally agreed upon human rights norms, rather than context-specific and contested *means*’.⁹² Many NGOs, pushed the human rights focus, such as Human Rights Watch,⁹³ and the Centre for Economic and Social Rights.⁹⁴ A joint statement, endorsed by 19 leading human

⁸³ Darrow, ‘Millennium Development Goals: Milestones or Millstones - Human Rights Priorities for the Post-2015 Development Agenda’ (2012) 15 *Yale Human Rights and Development LJ* 55.

⁸⁴ General Assembly resolution 66/288 of 27 July 2012, Annex, *The Future We Want*, para. 8.

⁸⁵ Terms of Reference for the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, available at: <<http://www.un.org/sg/management/pdf/ToRpost2015.pdf>>.

⁸⁶ UN, *Realizing the future we want for all: Report to the Secretary-General* (June 2012) i.

⁸⁷ High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, *A New Global Partnership: Eradicate Poverty and Transform Economies Through Sustainable Development: The Report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda*, (UN, 2013) Executive Summary and 7.

⁸⁸ Eg, *A New Global Partnership*, n 87, Executive Summary and 9 and 18.

⁸⁹ *A New Global Partnership*, n 87, 27.

⁹⁰ *A New Global Partnership*, n 87, 50.

⁹¹ Fukuda-Parr, ‘Recapturing the Narrative of International Development’, UN Research Institute for Social Development Research Paper No. 2012–5 (July 2012) 6.

⁹² Darrow, n 83, 105.

⁹³ Eg Human Rights Watch, ‘Letter to the High-level Panel of Eminent Persons on the Post-2015 Development Agenda’ (24 March 2013) available at: <<http://www.hrw.org/news/2013/03/24/letter-high-level-panel-eminent-persons-post-2015-development-agenda>>.

⁹⁴ Centre for Economic and Social Rights and OHCHR, *Who Will Be Accountable? Human Rights and the Post-2015 Development Agenda* (UN, 2013).

rights organizations in 2013, called for human rights to be placed at the core of the new development agenda.⁹⁵

The final product that emerged was Resolution 70/1, adopted by the General Assembly on 25 September 2015,⁹⁶ with the title “Transforming our world: the 2030 Agenda for Sustainable Development”, and consisting of a Preamble and a Declaration, enumerating the 17 goals and 169 targets.⁹⁷ From the human rights perspective, the 2030 Agenda is certainly an advance over the MDGs, beginning with the affirmation in the preamble that the SDGs ‘seek to build on the Millennium Development Goals and complete what they did not achieve. They seek to realize the human rights of all ...’.⁹⁸ The Declaration contains several strong paragraphs affirming the importance of human rights in the post-2015 development agenda, such as paragraphs 3, 8, 10 and 19:

3. We resolve, between now and 2030, to end poverty and hunger everywhere; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls; and to ensure the lasting protection of the planet and its natural resources.

...

8. We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity.

...

10. The new Agenda is guided by the purposes and principles of the Charter of the United Nations, including full respect for international law. It is grounded in the Universal Declaration of Human Rights, international human rights treaties, the Millennium Declaration and the 2005 World Summit Outcome. It is informed by other instruments such as the Declaration on the Right to Development.

...

19. We reaffirm the importance of the Universal Declaration of Human Rights, as well as other international instruments relating to human rights and international law. We emphasize the responsibilities of all States, in conformity with the Charter of the United Nations, to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.

The latter paragraph was taken verbatim from the Rio+20 Declaration as a diplomatic compromise in response to concerns of certain delegations to avoid broader language that might imply recognition of LGBT rights.⁹⁹ Specific additional references are found in paras. 20, 29, 35, as well as in Goal 4.7 on education, in para. 67 on business and human rights, and in para

⁹⁵ ‘New development goals must have human rights at their core’ (6 May 2013), available at: <<http://www.rightingfinance.org/?p=402>>.

⁹⁶ n 12.

⁹⁷ Ibid, para. 54.

⁹⁸ Ibid, Preamble.

⁹⁹ Centre for Economic and Social Rights, ‘Strong commitments in final SDG text, despite sordid final compromises’, available at <http://cesr.org/strong-commitments-final-sdg-text-despite-sordid-final-compromises>.

74 stating that ‘Follow-up and review processes ... will be people-centred, gender-sensitive, respect human rights and have a particular focus on the poorest, most vulnerable and those furthest behind’.

Compared to the MDGs, which make no reference to human rights, the SDGs contain 14 references to human rights. In its position paper on the 2030 Agenda, OHCHR concluded,

Despite some gaps from a human rights perspective, the new Agenda goes far beyond the MDGs in encompassing issues related not only economic, social and cultural rights but also civil and political rights and the right to development. With its universal applicability and its importance in shaping development priorities, the 2030 Agenda will open up new avenues to integrate human rights into global and national policies in both developed and developing countries over the next 15 years. However, a strong accountability architecture must be established at national, regional and global levels. Indicators should be grounded in human rights and data should be disaggregated as far as possible according to the grounds of discrimination prohibited under human rights law. People should be empowered to hold their governments accountable for meeting the new Goals.¹⁰⁰

Implementation of the SDGs will be monitored by the High Level Political Forum on Sustainable Development (HLPF), a United Nations platform meeting annually under the auspices of the Economic and Social Council, and every four years under the auspices of the General Assembly. Indicators have been prepared by the Inter-Agency and Expert Group on SDG Indicators (IAEG-SDGs) and agreed upon by United Nations Statistical Commission in March 2017.¹⁰¹ The Center for Economic and Social Rights commented that ‘the new development agenda could be an important vehicle for human rights fulfilment’, adding that to do so ‘the indicators will also need to be human rights-aligned’.¹⁰² For this purpose, it has published a policy brief, enumerating human rights-based criteria for indicator selection and principles and provisions so that in SDG indicators on particular issues can better reflect international human rights standards.¹⁰³

Additional reflections on the human rights strengths and weaknesses of the SDGs is found in the work of the Reflection Group on the 2030 Agenda for Sustainable Development. Its 2016 report found ‘severe obstacles to the implementation of the 2030 Agenda and overcoming them is a prerequisite for achieving the SDGs and fulfilling the commitments made to human rights and sustainability’.¹⁰⁴ The report made numerous critical observations and recommendations about the potential for a more human rights-focused approach to the SDGs.

4.2.4 Bilateral development cooperation

The trend of national development agencies to adopt human rights approaches has been studied by the Organisation for Economic Co-operation and Development (OECD) and the

¹⁰⁰ OHCHR, *Transforming Our World: Human Rights in the 2030 Agenda for Sustainable Development*, available at:

<http://www.ohchr.org/EN/Issues/MDG/Pages/MDGPost2015Agenda.aspx>.

¹⁰¹ *Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators* (E/CN.3/2017/2, 15 December 2016), Annex III.

¹⁰² CESR, *The Measure of Progress: how human rights should inform SDG indicators*, available at <http://cesr.org/measure-of-progress>.

¹⁰³ CESCR, *The Measure of Progress: How human rights should inform the SDG indicators* (October 2015).

¹⁰⁴ *Spotlight on Sustainable Development 2016. Report by the Reflection Group on the 2030 Agenda for Sustainable Development* (2016) 12.

World Bank, as part of the effort of the World Bank Nordic Trust Fund (NTF), which was created in 2008 ‘to help develop an informed view among Bank staff on how human rights relate to the Bank’s core work’.¹⁰⁵ That study is premised on the proposition that ‘human rights offer a coherent normative framework that can guide development assistance’.¹⁰⁶ The advantages identified by the study relate to adaptability to different political and cultural environments, the potential for operationalizing human rights principles, relevance to good governance and meaningful participation, poverty reduction, and aid effectiveness.¹⁰⁷ Examples of bilateral policies and programmes applying a human rights based approach to development (HRBA) are found in Sweden, the UK, Germany, Austria, Australia, Canada, the Netherlands, the USA, Switzerland, New Zealand, Norway, and Ireland.¹⁰⁸

Efforts to integrate human rights have been less successful in relation to the Paris Declaration on Aid Effectiveness, adopted in 2005 by ministers or senior officials of some 85 developed and developing countries and heads of 20 bilateral and multilateral development agencies. The Declaration seeks to reform the delivery of aid and outlines the five overarching principles of ownership, alignment, harmonization, managing for development results, and mutual accountability, with agreed upon indicators, targets, timetables, and processes to monitor implementation. Each of these principles has been examined critically from the human rights perspective in a paper commissioned from the Overseas Development Institute by the OECD, which argues for using human rights to broaden the scope and content of the Paris Declaration commitments and indicators on mutual accountability.¹⁰⁹ Although human rights are not mentioned in the Paris Declaration, they are referred to twice in the Accra Agenda for Action, adopted by the Third High-Level Forum on Aid Effectiveness, held in Accra, Ghana, in 2008. Thus, the Agenda states that ‘gender equality, respect for human rights, and environmental sustainability are cornerstones for achieving enduring impact on the lives and potential of poor women, men, and children. It is vital that all our policies address these issues in a more systematic and coherent way’.¹¹⁰ The Fourth High Level Forum on Aid Effectiveness, held in 2011 in Busan, Republic of Korea, adopted the Busan Partnership for Effective Development Cooperation, which refers to ‘our agreed international commitments on human rights, decent work, gender equality, environmental sustainability and disability’¹¹¹ and to rights-based approaches of civil society organizations, which ‘play a vital role in enabling people to claim their rights’,¹¹² but does not add to the human rights content of the Accra Agenda for Action. It called for a ‘new, inclusive and representative Global Partnership for Effective Development Co-operation [GPEDC] to support and ensure accountability for the implementation of commitments at the political level’.¹¹³ This GPEDC has since convened for two high level meetings, 2014 in Mexico City and 2016 in Nairobi. At the Nairobi meeting—the first high level meeting since the 2030 development agenda was adopted—the GPEDC did not go beyond

¹⁰⁵ OECD and World Bank, *Integrating Human Rights into Development: Donor Approaches, Experiences, and Challenges* (3rd ed, World Bank, 2016) 16

¹⁰⁶ *Ibid*, 26.

¹⁰⁷ *Ibid*, xxiii-xxv.

¹⁰⁸ *Ibid*, 107-113.

¹⁰⁹ Foresti, Booth, and O’Neil, *Aid Effectiveness and Human Rights: Strengthening the Implementation of the Paris Declaration* (Overseas Development Institute, 2006).

¹¹⁰ The Accra High Level Forum (HLF3) and the Accra Agenda for Action, para 3, available at: <<http://www.oecd.org/dac/effectiveness/theaccrahighlevelforumhlf3andtheaccraagendaforaction.htm>>.

¹¹¹ Fourth High Level Forum on Aid Effectiveness, para 11, available at: <<http://www.oecd.org/dac/effectiveness/fourthhighlevelforumonaideffectiveness.htm>>.

¹¹² *Ibid*, para 22.

¹¹³ *Ibid*, para. 36.

reiterating ‘agreed international commitments on environmental sustainability, human rights, decent work, gender equality and the elimination of all forms of discrimination’.¹¹⁴ In contrast, civil society partners participating in Nairobi committed to ‘respect and promote human rights and social justice’ and ‘to develop and implement strategies, activities and practices that promote individual and collective human rights, including the right to development’.¹¹⁵

4.2.5 The right to development

One of the greatest challenges for an economic approach to poverty is to accept the proposition that development itself—essentially an economic process—can be regarded as a human right—an essentially legal and governance concept. The challenge from the beginning has been to translate the hopeful but ambiguous language of the UN Declaration on the Right to Development (1986)¹¹⁶ into concepts that are meaningful to economists and useful to the rethinking of the development process and poverty reduction strategies. The Declaration does not address poverty as such, although elimination of poverty is implicit in concepts such as ‘constant improvement of well-being’, ‘eliminating obstacles to development’, and ‘access to basic resources, education, health services, food, housing, employment and the fair distribution of income’. The chapter on poverty in the exhaustive OHCHR publication *Realizing the Right to Development*, ‘examines the connection between development processes and poverty through the lens of the right to development’.¹¹⁷ The author recalls the High Commissioner statement on the 25th anniversary of the Declaration: ‘It’s not an act of nature that leaves more than 1 billion people around the world locked in the jaws of poverty. It’s a result of the denial of their fundamental human rights to development’.¹¹⁸ The General Assembly has regularly made the connection between poverty and this right, including recognizing ‘that eradicating poverty in all its forms and dimensions, including extreme poverty, is one of the critical elements in the promotion and realization of the right to development’.¹¹⁹

Most developing states use the right to development to voice their concerns about the negative impact of certain aspects of international trade, unequal access to technology, and the crushing debt burden; they favour the idea of an international convention to establish binding obligations to realize the right to development. In contrast, most donor states see the right to development as a way of improving the governance and rule-of-law performance of recipient states.

The real test is whether the right to development can help define a middle ground between these two contrasting positions, on which consensus can be sustained and practical outcomes achieved. The High-Level Task Force on the implementation of the right to development (which functioned under Human Rights Council resolutions from 2004 to 2010) attempted to bridge this gap between political posturing and practical policy in its report to the Working Group on the Right to Development in 2010. It defined the right to development as ‘the right of peoples and individuals to the constant improvement of their well-being and to a national and global enabling environment conducive to just, equitable, participatory and

¹¹⁴ Nairobi Outcome Document, 1 December 2016, para. 4, available at <<http://effectivecooperation.org/wp-content/uploads/2016/12/Global-Partnership-Nairobi-Outcome-Documents-FINAL-1-December-2016.pdf>>

¹¹⁵ Ibid, para. 67 (c).

¹¹⁶ GA Res 41/128 (4 December 1986).

¹¹⁷ Hadiprayitno, Poverty, in OHCHR, *Realizing the Right to Development* (UN, 2013) 137. Available at <<http://www.ohchr.org/EN/Issues/Development/Pages/RTDBook.aspx>>

¹¹⁸ Ibid, 139.

¹¹⁹ General Assembly Resolution 71/192. The right to development, 19 December 2016, preamble.

human-centred development respectful of all human rights’.¹²⁰ The Task Force proposed three components or attributes, which not only clarify the meaning of the right, but specify how it can be instrumental in responding to poverty. The three attributes correspond to the concepts of policy, process, and outcome. The *policy* defined in attribute 1 is a ‘comprehensive and human-centred development policy’. Attribute 2, focused on *process*, refers to ‘participatory human rights processes’ (ie, rules and principles of human rights, participation, accountability, and transparency) and attribute 3 makes clear that the *outcome* of action to realize this right is ‘social justice in development’ in terms of fair distribution of the benefits and burdens of development. The Task Force also provided criteria, sub-criteria, and indicators to further specify what is expected of national and international development policy and practice conducive to poverty elimination and the right to development.

Responsibility for the right to development is complicated by the fact that states have not translated their commitment to this right into decision-making in their international partnerships aimed at poverty reduction and, without an explicit mandate, it is unlikely that national and international policies and programmes will incorporate the right to development. Most poverty reduction strategies are based on political and legal commitments, such as PRSPs or EDDs, with clear incentives to comply with standards and procedures, often resulting in targeted funding or debt forgiveness. The right to development has no such incentives and prospects for an international treaty are dim. The right to development is guaranteed in two regional human rights treaties, namely in Article 22 of the African Charter on Human and Peoples’ Rights and Article 37 of the Arab Charter on Human Rights. However, none of the institutions that monitor implementation of these treaties had taken any significant steps to hold states parties accountable according to these provisions until the African Commission on Human and Peoples’ Rights issued its landmark decision concerning the violation of the right to development as a result of an eviction of an indigenous group from a wildlife reserve in Kenya.¹²¹ Article 22 was also found to have been violated by the Republic of Sudan as a result of attacks and forced displacement of the Darfurian people.¹²² Beyond those cases, there has been virtually no legal accountability for the right to development.

Since the task force submitted its consolidated findings, the Working Group has collected comments and views by Governments, groups of Governments and regional groups, as well as by others¹²³ and the Human Rights Council has called for the OEWG to ‘further consider, revise and refine the draft criteria and operational sub-criteria’¹²⁴ and ‘once considered, revised and endorsed by the Working Group’, they ‘should be used, as appropriate, in the elaboration of a comprehensive and coherent set of standards for the implementation of the right to development’.¹²⁵ Also in 2016, the General Assembly instructed the Working Group to “finalize consideration of the criteria and operational subcriteria, preferably no later than the nineteenth session of the Working Group [2018],” and appointed a Special Rapporteur

¹²⁰ A/HRC/15/WG.2/TF/2.Add.2 (2 February 2010) Annex.

¹²¹ 276/03, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, 27th Activity Report of the ACommHPR (2009).

¹²² 279/03, *Sudan Human Rights Organisation (SHRO) v. Sudan* and 296/05, *Centre on Housing Rights and Evictions (COHRE) v. Sudan*, ACmHPR, holding of violation of Article 22 on May 27, 2009, available at <http://caselaw.ihrda.org/doc/279.03-296.05/pdf/en/>.

¹²³ UN doc. A/HRC/WG.2/13/CRP.1 and 2.

¹²⁴ Human Rights Council Resolution 21/32, adopted 28 September 2012, para. 8.

¹²⁵ *Ibid*, para. 9 (b).

on the right to development.¹²⁶ It is unclear whether this appointment, the standards drafted by the chair-rapporteur¹²⁷ and the instructions to the OEWG will advance the effort since 2010 to move the right to development from political rhetoric to development practice in ways that reduce the structural causes of poverty.

The politics of the right to development is largely a matter of balancing the national and international dimensions of this right, since each dimension reflects the preference of different groups of states. In theory and in the wording of the Declaration, both are complementary rather than conflicting. The greatest challenge in bringing the right to development into the realm of practice is for all states to embrace the indivisibility and interdependence of ‘all the aspects of the right to development’ as set forth in Article 9 of the Declaration and to agree to development agendas consistent with the affirmation in Article 4 that, ‘as a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development’. The right to development has so far proved to be too broad in scope and too demanding in terms of structural change to be a significant factor in the practice of poverty reduction. It remains, nevertheless, the most systematic human rights framework for addressing issues of poverty at the normative level.

5 Conclusion

There are two reasons why those who favour the growth model of development resist what they see as the well-intentioned but misguided intrusion of human rights into pro-poor development work. The first is the conviction that economic progress suffers as a result of advancing human rights before a sufficient level of prosperity has been reached. However, the examples of countries that developed rapidly under conditions of human rights deprivation and that liberalized later (eg, Brazil, Chile, South Korea, Singapore and Taiwan) are far too complex to be probative, and counter-examples can be found, such as Costa Rica, Ghana, India, Senegal, and Thailand, that did not impose systematic human right deprivation as the price of economic development. The second is that those who have primary responsibility over the economy—ministers of finance and planning, corporate executives, shareholders, and many academic economists—often assume that human rights are merely matters of legal disputes or strident claims of the political opposition to the government which they represent or with which they cooperate.

However, in response to the challenges posed at the beginning of this chapter, there are compelling reasons why human rights are both definitional of and instrumental to anti-poverty objectives. The definitional component is the common purpose of both human rights and development, which specialists in both fields usually articulate in terms of human welfare. The instrumental component is the relationship between human rights and forms of empowerment that make anti-poverty measures sustainable and equitable.

A powerful justification for human rights in the anti-poverty agenda relates to the proposition that human rights define the same objective as pro-poor development, for which human development is a convenient proxy. From the capability perspective, both human development and human rights increase freedom. From the utilitarian perspective, both

¹²⁶ Human Rights Council Resolution 33/14, The right to development, adopted 29 September 2016. paras. 13 and 14, welcomed by the General Assembly in resolution 71/192 (19 December 2016), para. 16. The current mandate holder is Mr. Saad Alfarargi (Egypt).

¹²⁷ *Report of the Chair-Rapporteur of the Working Group on the Right to Development, Standards for the implementation of the right to development*, UN Doc. A/HRC/WG.2/17/2, 16 March 2016.

enhance human well-being. However, the similarity is diminished if development is defined merely in terms of growth in production and consumption of goods and services, which is the case in particular of the G20 process discussed in Section 3. Growth is desirable but not an end in itself; it is a means towards various possible ends. If the end is the enrichment of the few at the expense of the many and of the planet, then it will not help the poor. If it is a means toward sustainable and equitable development, then it must be governed so as to reach that end. Another way of understanding the relationship between the means and ends of development is to recall that, '[e]conomic growth is often promoted as a means to alleviate poverty; yet even when growth does materialize, its benefits are unevenly distributed and rarely accrue to the poor.'¹²⁸

Thus, the first step in clarifying in practical terms the meaning of poverty in the context of human rights is to note that pro-poor human development, like human rights, is a process that enables choices by all people to lead a life they value and, thus, enhances their well-being. Human rights are also about creating an environment in which people can develop their full potential and lead creative lives by, in the words of the UDHR, assuring 'the dignity and worth of the human person' and promoting 'social progress and better standards of life in larger freedom'.¹²⁹ The ultimate objective of both human development and human rights is, therefore, well-being as understood in both fields. The greatest obstacle to those choices is poverty, which is both capability deprivation and a measure of the denial of human rights.

The economic empowerment of people to be subjects rather than objects of their own history, to know, claim, and realize the full range of their human rights is both morally desirable and the principal means to realize what Article 28 UDHR refers to as the right to 'a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'. The combats against poverty and for human rights come together in the vision of such a social and international order.

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¹²⁸ Millen, Irwin, and Yong Kim, 'Conclusion: Pessimism of the Intellect, Optimism of the Will', in Yong Kim, Millen, Irwin, and Gershman, *Dying for Growth: Global Inequality and the Health of the Poor* (Common Courage Press, 2000) 383.

¹²⁹ UDHR, preambular para 5.

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USEFUL WEBSITES

Special Rapporteur on extreme poverty and human rights:

<<http://www.ohchr.org/EN/Issues/Poverty/Pages/SRExtremePovertyIndex.aspx>>

International Network for Economic, Social and Cultural Rights: <<http://www.escr-net.org/>>

World Bank: <<http://www.worldbank.org/>>

Oxfam International: <<http://www.oxfam.org>>

United Nations, SDGs-Poverty: <<http://www.un.org/sustainabledevelopment/poverty/>>

Centre for Economic and Social Rights: <<http://www.cesr.org>>