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Sustainable Development Goal 10 & Human Rights: An Untapped Potential

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1. INTRODUCTION

During the UN Summit that formally launched the resolution “*Transforming Our World: The 2030 Agenda for Sustainable Development*”, the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein addressed the UN Summit, stated that “inequalities and discrimination are the defining challenge of our time”¹. This statement holds true, as the dramatic rise of inequalities over the last decades has resulted in 80 of the richest people on the planet owning as much as the bottom half of the world population². Perpetuated by dominant neo-liberal economic policies, market fundamentalism and regressive austerity measures, inequality has continued to widen on a global scale, and has taken root as an inherent socioeconomic injustice that has a disproportionate impact on the poor and most vulnerable³. Growing evidence of the detrimental effects that increasing inequality brings along, and the hindrance it poses to sustainable development as a whole, led to its inclusion as a stand-alone goal in the final 2030 Agenda, adopted by the UN General Assembly on 25 September 2015. Laid out in Sustainable Development Goal 10 (SDG 10), governments have formally agreed to commit to the task of “reducing inequalities within and among countries”⁴. Since the increasing concentration of wealth has detrimental human rights effects, the global commitment to reduce inequalities was celebrated by the human rights community. However, the 10 targets and 11 indicators that make up SDG 10 has been widely criticized for its vague wording and inadequate measures when it comes to addressing the critical issues necessary in reducing inequalities⁵. The misalignment between targets, indicators and the overall aspiring goal of SDG 10 is likely to have negative consequences for how the goal is interpreted and how measures will be implemented from both a national and global perspective.

Alongside the issues related to SDG 10, a more general debate on whether human rights are suited to address economic inequality has flared up over the last few years. The central argument revolves around the (in)ability of international human rights law (IHRL) to effectively tackle inequalities. While human rights do have a lot to say on inequality on the basis of culturally and socially constructed groups, IHRL, arguably, has nothing to say about inequalities

¹ MacNaughton, (2017) p. 1050

² Oxfam, (2020) p. 14

³ Alston, (2015)

⁴ UN General Assembly, (2015) p. 21

⁵ MacNaughton, (2017) p. 1051

in wealth, income, and social outcomes. As highlighted by Philip Alston⁶, the UN Special Rapporteur on Extreme Poverty and Human Rights, “there is no explicitly stated right to equality, as such, under international human rights law”. This premise will serve as the underlying basis for this thesis. Based on the weaknesses of SDG 10 and human rights law’s apparent silence on the gap between rich and poor, this thesis will seek to answer the following research questions:

1. Is the human rights framework relevant and applicable to address the challenge of rising inequalities?
2. If so, how can a human rights-based approach contribute to the implementation of SDG 10 and assist in reducing inequalities characterized as both horizontal and vertical?

The aim of this thesis is to further explore how human rights norms, standards and instruments can be deployed as tools to address inequality and redress its consequences. As such, how it may help guide interpretation and implementation of SDG 10 in a more efficient and effectual manner, also in terms of monitoring state progress and pursuing accountability, is a key consideration. Even though IHRL may be silent on the specific gap between rich and poor, I will argue that human rights nonetheless have much to say on the regressive policies that fuel this growing gap. As will be discussed, the key determinants of both social and economic inequalities can be found in skewed, unjust and regressive fiscal policies. In other words, inequality is not a natural phenomenon, but something that stems from, and that is being perpetuated by, specific government actions. As these policies are discriminatory in nature, this thesis will argue that inequality goes hand in hand with discrimination, and this is something that the international human rights framework is well-equipped to address. As such, this thesis will explore the potential of fundamental human rights principles, including “equality” and “nondiscrimination”, and assess how they can be applied, and how they can contribute to shape SDG 10 implementation on the basis of already codified human rights obligations. Furthermore, this thesis will explore policy areas and give concrete examples of how human rights norms and standards can strengthen and push for economic and fiscal alternatives that are more sustainable, just, and that protects vulnerable populations and their abil-

⁶ UN Human Rights Council (2015) p. 18

ity to access essential goods and services that are necessary for the full realization of human rights.

In what follows, this thesis will begin by shedding light on the key aspects of inequality and human rights-based approaches. Then, before addressing how pillars of the human rights framework can be reconciled with equality and complement the implementation of SDG 10, Chapter 2 will first explore SDG 10 targets and indicators, and carefully analyze if they are up to the challenge.

1.1 Inequality

The idea of inequality is complex from a conceptual standpoint, as there are various perspectives in which it can be viewed as a social problem⁷. Some amount of inequality is expected in every country, and often argued to be positive in nature as it fuels increased efforts and provides incentives for the individual to succeed in life. Further, it is also viewed as natural in the sense that it portrays different talents, skillsets, efforts and achievements of peoples in society. This view of inequality has traditionally been held by economists, but has over the last decade been discredited by the academic community⁸. Today, a consensus has formed across disciplines and fields, where inequality is seen in terms of being a social injustice that is rooted in structures of society, which have both social and economic proportions that overlap and reinforces each other⁹. From a social standpoint, scholars such as Wilkinson and Pickett have been prevalent in researching the social “costs” of inequality. According to their 2010 study¹⁰, which was based on 25 countries, individuals with identical levels of income and education do better in equal societies than in unequal societies. The social “costs” exacerbated by inequality, according to Wilkinson and Pickett, include mental and physical health, life expectancy, infant mortality, educational performance, crime rates, among others. Their research has been further documented and acknowledged, and there is today no denial within the scholarly community when it comes to the fact that inequality further strengthens barriers in society, and further reinforces social problems¹¹.

⁷ Chancel, et al., (2018) p. 7

⁸ Kuhn, (2020) p. 140

⁹ *ibid.* p. 140

¹⁰ Wilkinson & Pickett, (2010)

¹¹ Chancel, et al., (2018) p. 7

From an economic standpoint, inequality is continuing to rise. However, when we discuss the term “economic inequality”, it is extremely important to remain specific about whether we discuss inequality among states, among individuals on a global level, or within states. This is because these different perspectives all covers diverse issues and differ with regards to the appropriate means of measuring¹². As for inequality among countries, it has continued to rise on an enormous scale. According to a World Bank study from 2015, the national income of low-income countries amounted to approximately 1,572 US \$ per capita, while high-income countries earned a staggering 40, 732 US \$ per capita¹³. When it comes to inequality among individuals in a global context, Oxfam’s latest figures provide evidence of a vast increase¹⁴. In 2010, 388 billionaires owned the same amount of wealth as the bottom 50 percent of the world population. In 2018, 43 people owned the same amount of wealth as the poorest 3.8 billion people in the world, and one year later, this figure was reduced to 26 people owning the same amount of wealth. This serves as evidence of the general tendency of a rising wealth and income share of the top 1 percent of the world population compared to the bottom 50 %. If we look over the last five years, Oxfam estimates that the wealth of the bottom half of the world population has been reduced by 38 percent. Even though inequality among states and between individuals globally has continued to rise and are of persistent concern, this thesis will mostly focus on inequality within states. As with the other types of inequality laid out above, economic inequality within states is also increasing at an alarming pace. In fact, the gap between rich and poor within countries has increased in almost every country over the last 30 years, leaving most of the wealth in the hands of a tiny minority¹⁵.

When we discuss inequalities within states, it is important to separate between “horizontal inequality” and “vertical inequality”. Horizontal inequality can be described, according to Balakrishnan and Heintz¹⁶, as those that occur between “culturally defined or socially constructed groups, such as gender, race, ethnicity, religion, caste and sexuality”. This type of inequality address disparities between groups with shared identities, which in many cases can be traced back as a direct consequence of historical discrimination where certain marginalized

¹² Brinks & Dehm, (2019) p. 366

¹³ World Bank Group, (2016) p. 22

¹⁴ Oxfam, (2020) p. 21

¹⁵ Saiz & Donald, (2017) p. 1030

¹⁶ Balakrishnan & Heintz, (2015)

groups in society have remained disadvantaged¹⁷. As such, reducing horizontal inequalities often entails reducing the exclusion of vulnerable and marginalized groups by for example expanding social services to reach those left behind. Vertical inequalities, on the other hand, refers to “inequalities of wealth, income, or social outcome, including inequalities in health, education, housing and political power”¹⁸. So, contrary to horizontal inequalities which address group-based differences, vertical inequality refers to the economic distribution within society, and refers directly to the concentration of wealth and resources among the elite compared to others in society. The difference between these two concepts is very important with respect to human rights, as the issue of horizontal inequality is much more developed in IHRL than those surrounding vertical inequalities. Moreover, it is important to note that horizontal and vertical inequalities are of a mutually reinforcing nature, where a rise in one leads to an increase of the other. Such correlation and mutual reinforcement can be seen in several developed and less-developed states; for example, an increase in economic inequality produce a negative impact on horizontal inequalities through higher levels of racism, discrimination against women, and discrimination against indigenous people, to name a few¹⁹.

1.2 Economic Inequality and Human Rights

When income and wealth is further concentrated in the hands of tiny elites, it produces stark contrasts in access to essential public goods and services, such as health facilities, education services, work, and housing²⁰. As such, there is no denying that economic inequality has a negative impact on human rights enjoyment. As extreme economic inequality leads the most disadvantaged and marginalized people to suffer in their access to public goods, it adversely effects the enjoyment of an array of economic and social human rights provisions, including access to education, health, and housing. Extreme economic inequalities fuel human rights implications with regards to civil and political rights as well, such as producing disparities related to rule of law and equality of access to justice²¹. Further, it also contributes to rising poverty and increased social exclusion, something which can be seen as key drivers of violent conflict, insecurity and political unrest²². Lastly, it has been argued that extreme inequalities

¹⁷ *ibid.*

¹⁸ *Ibid.*

¹⁹ MacNaughton, (2017) p. 1055

²⁰ Center for Economic and Social Rights, (2016) p. 1

²¹ Saiz & Donald, (2017) p. 1032

²² *ibid.* p. 1032

in wealth and income has a negative effect on accountability and on the equal opportunity for political participation. Such hampering is often a result of elite capture of the political process, which contribute to upholding the un-just economic and political institutions that fuel inequality²³. Based on this information, it becomes clear that the social, political and economic consequences of extreme economic inequality have huge human rights concerns and implications.

Despite the evident relationship between economic inequality and increased human rights deprivations, the human rights regime has remained relatively silent when it comes to issues of economic inequality. Rather than focusing on inequalities in wealth, income and social outcomes, the human rights regime has historically focused on horizontal inequalities, most notably those related to gender, race, disability, and other similar characteristics²⁴. What has caused the human rights movement to remain so silent on an issue so critical to the full realization of human rights? The answer to this is complex and multifaceted, and probably encompass several intertwined explanations. Samuel Moyn, one of the most prominent voices within the debate regarding human rights and economic inequality, points to how the human rights movement is ill-equipped to deal with the issue of economic inequality. In order to back up his argument, Moyn argue that human rights have only focused on providing people with minimum levels of protection, something that makes it badly suited to deal with inequality²⁵. To illustrate this point, Moyn provides an example of a world where one man owns everything. However, this man would not be in breach of any human rights obligations, as long as the other inhabitants have their basic minimum levels of rights fulfilled. Consequently, human rights remain a “powerless companion of market fundamentalism” because human rights just don’t have anything specific to say about inequality²⁶. If we look at development efforts in today’s world, much of Moyn’s argument does hold true. In terms of reducing poverty, the main model of such efforts has revolved around boosting economic growth. However, as economic growth has been generated, the vast amount of new income has been captured by the wealthiest in society. In fact, between 1980 and 2016, the richest 1 percent ended up with 30 percent of new income²⁷. Consequently, as economic growth is stimulated, the top 1 percent

²³ Center for Economic and Social Rights, (2016) p. 3

²⁴ Balakrishnan & Heintz, (2019) p. 396

²⁵ Yepes & Hernandez, (2019) p. 380

²⁶ *ibid.* p. 380

²⁷ Hickel, (2019) p. 417

will capture most of the wealth, while a smaller amount will trickle down to the poorer fractions of society, thus fueling increased inequality²⁸. Moyn, along with several other commentators, does shed light on an important aspect of human rights and inequality, namely that there is no explicit right to economic equality under IHRL. Thus, there is no legally set ceiling in terms of what constitutes an appropriate gap in wealth between the “haves” and the “have-not’s”, and this might explain why the human rights movement has remained so silent on the issue.

Other arguments explaining the neglect of inequality can be found, and state that social justice and economic equality fundamentally don’t belong within the human rights realm at all. This view is held by Aryeh Neier, the former Executive Director of Human Rights Watch. According to Neier, the redistribution of resources lies outside the realm of human rights, and is rather something that belongs within the democratic process²⁹. In many respects, human rights are essentially about limiting the exercise of power. For example, the state and those holding power are forbidden to arbitrarily deny the right to privacy, freedom of expression, equality before the law, or to inflict cruel or inhumane harm on its population. These human rights can be viewed in terms of a social contract between the state and its population, and the population should be able to enforce these rights through a mechanism of enforcement, namely that of adjudication³⁰. These civil and political rights are well-defined and set clear and immediate duties on governments, and can be enforced through a judicial process. This common view of rights imply that rights should always take precedence over other considerations³¹. For example, the right not to be tortured entail that no other consideration can prevail against that right.

The concept of social justice and economic equality, however, and economic and social rights in general, comes down to questions regarding redistribution of resources and wealth, where other considerations often play important roles. For example, through the extensive use of fossil fuels and coal mining, China has been able to lift large numbers of people out of poverty and in to middle-class status. However, the Chinese efforts which have lifted so many out of poverty, has also done extensive damage to the public health, leaving millions of people

²⁸ *ibid.* p. 417

²⁹ Neier, (2006) p. 1

³⁰ *ibid.* p. 1

³¹ Neier, (2018) p. 5

with heart problems, respiratory diseases, and cancer³². The point is that economic issues are almost always subject to countervailing considerations, something that “rights” are unsuited to address and not something that can be managed through a judicial process, according to Neier. Instead, questions of redistribution should remain within the democratic process and rather be part of the public debate. As issues of resource redistribution are quite political and an opinionated subject, it makes some sense that no overarching “guardian” like the human rights regime should decide alone how resources should be allocated within society. According to Neier, these issues should be debated by everyone in the public space where the population can influence legislation and policy, and take part in negotiating and achieving compromises that deals with both sides of the equation³³.

The argument laid out by Neier, which states that human rights are concerned with putting limits on the exercise of power and not concerned with redistribution of resources, can be subject to counter arguments. While it is true that social and economic rights are concerned with distribution and redistribution of wealth and resources, it is also about the distribution and redistribution of power³⁴. Even though the word “power” in this regard might be directed to the muscles and influence of businesses and private actors, extreme rise of economic inequality can be directly linked to the specific actions of states and a deliberate lack of financial regulatory oversight and lack of progressive policies. When such actions lead to vast human rights deprivations, it becomes no different from a methodological standpoint with regards to human rights’ role in “limiting the exercise of power”³⁵. Further, as the Vienna Declaration affirms the indivisibility and equal standing of all human rights³⁶, arguments regarding civil and political rights as “core” rights with higher legal standings should be scrapped, and the same priority should be given to social and economic rights. Also, the argument held by Neier and Moyn which states that questions regarding redistribution of resources should be part of the political and democratic sphere, and not within human rights, loses legitimacy if we take a closer look at what has been happening around the world over the last two-three years.

The mass waves of protests against rising inequality and against the economic systems and structures that fuels this rise has swept the globe over recent years. It serves as a reminder that

³² *ibid.* p. 7

³³ Neier, (2006) p. 3

³⁴ Salomon, (2013)

³⁵ *ibid.*

³⁶ UN General Assembly, Vienna Declaration and Programme of Action, (1993)

the democratic process and political arena is not enough to bring about meaningful change with respect to fairer redistribution of resources³⁷. As people and social movements all over the world are calling for distributive justice, the human rights field has started to show concern and engage more heavily in the sphere of social and economic policy³⁸. Even though the international human rights framework doesn't provide any explicit right to economic equality per se, it does have a lot to say on the regressive policies that drive this rise in inequality, as this thesis will show. Consequently, there is vast potential for human rights organizations to expose injustices based on human rights violations and hold governments accountable. So even though Moyn and Neier do provide some valid points, they both have a tendency to undermine the complexity and range of different human rights movements. The Committee on Economic, Social and Cultural Rights (CESCR), for example, serves as evidence of an organization that has successfully managed to develop holistic human rights-based methods analyzing whether a country's specific economic policies are in line with human rights principles³⁹.

Nevertheless, human rights have been a relative newcomer, and have arguably been hampered in its own effectiveness by not addressing economic inequality earlier on. There is no denying that there have been an overall failure and lack of framing of economic inequality as a human rights issue, namely because there is no straight forward process to do it. Despite this failure, human rights should not be undermined in its potential to play a key role. There are several reasons for how and why the introduction of a human rights-based approach to such issues is timely at this point. As mentioned above, global protests are sweeping the world, something that has led to increased public awareness when it comes to fighting and challenging the underlying economic and political structures that fuel increased disparity and injustices. However, instead of grounding public arguments for change in an ideological manner that revolves around the bad effects of capitalism and market fundamentalism, a human rights-based approach to economic inequality has the potential to alter this debate and ground inequality in legal frameworks.

³⁷ Corkery & Saiz, (2020)

³⁸ Saiz, (2018)

³⁹ Corkery & Saiz, (2020)

1.3 Human Rights-based Approaches

A human rights-based approach (HRBA) is a conceptual framework that is normatively grounded in human rights⁴⁰. Such grounding means that HRBAs draw on legally adopted human rights norms, standards, and principles from international regional treaties, national law, and work done by human rights monitoring bodies and courts⁴¹. From an operational standpoint, a HRBA seeks to promote and protect human rights, and let international human rights provisions guide the process of programming, plans, strategies, and policies⁴². HRBAs can be traced back to the Declaration on the Right to Development from 1986 and the Vienna Declaration and Program of Action from 1993, which called on all UN entities to mainstream human rights into their activities and programs. HRBAs can take many forms, and there is no single definition or practice. However, all HRBAs do have some commonly shared characteristics. As noted by Vandenhole and Gready, all HRBAs are concerned about processes and outcomes. In terms of outcomes, all HRBAs share the characteristic of providing and putting forward a framework that protects and promotes human rights, thus envisaging human rights realization as the goal of development work. As for the process in which the outcomes are achieved, a common characteristic is to change the way development work is done by introducing strategies and policies which contain normative grounding in a rights-based system with corresponding state obligation and duties⁴³. As such, the core feature of a human rights-based approach entails putting human rights at the very center of national policies and practices. Even though the normative groundings may change depending on the actor implementing the approach, most HRBAs share a focus on the human rights principles of participation, accountability, nondiscrimination, empowerment, and linkage to human rights norms (also referred to as normativity)⁴⁴.

As mentioned above, and which will be elaborated on in chapter 4, growing economic and social inequality are a result of specific government fiscal policies and actions, that have huge negative impacts on human rights enjoyment. However, protecting human rights as the main aim of fiscal policies, especially in times of economic downturns, have shown to result in cre-

⁴⁰ UNRISD, (2015)

⁴¹ Vandenhole & Gready, (2014) p. 293

⁴² UNESCO, (2007) p. 9

⁴³ Vandenhole & Gready, (2014) p. 293

⁴⁴ *ibid.* p. 294

ating more inclusive and long lasting economic recoveries⁴⁵. So instead of relying on markets, cutbacks in social spending, and other austerity measures that are purely based on technocratic considerations in the quest for economic recovery, a HRBA to economic policy would provide an alternative framework where such considerations would only play a supporting role⁴⁶. On the contrary, a HRBA would provide a framework that is not limited to GDP or income when it comes to assessing economic policies and outcomes. More specifically, it would contribute to re-center economic decisions around human rights principles and make it easier to evaluate particular fiscal consolidations measures against a set of specific legal obligations. As economic policies guided by technocratic measures lack a human and compassionate focus, and often leads to having a disproportionate impact on the most vulnerable, introducing a HRBA with social and economic equality at its center would help drawing out the discriminatory effects of policies and favor the interest of the most disadvantaged⁴⁷. Lastly, a well-designed HRBA with respect to fiscal policy would prioritize transparency and participation of those most affected by discriminatory government policies, and also offer tools that will strengthen the accountability of economic decision-makers.

While the introduction of a rights-based approach to economic inequality represents potential for ensuring fairer re-distribution of wealth and resources, and give the most vulnerable and marginalized people the legal means necessary to improve their conditions, there are no promises that the adoption of a HRBA will accomplish its objectives and lead to the transformative changes that extreme economic inequality calls for. From a critical standpoint, there remains a lack of evidence when it comes to HRBAs positive effects in altering organizational behavior, as well with regards to the positive influence HRBAs have in combatting poverty compared to other “needs-based” development approaches⁴⁸. Rather, the promising information found on the impact of rights-based agendas are often based on anecdotal qualitative evidence, with little empirical and reliable facts attached to it⁴⁹. Therefore, it is arguable that HRBAs are broadly based on hopeful assumptions where the deep factors of what constitutes change are ignored. When it comes to the relationship between law and change, scholars and commentators usually either holds the position that “law follows change” or that “law may lead to

⁴⁵ MacNaughton, (2017) p. 1055

⁴⁶ Balakrishnan, et al., (2016) p. 2

⁴⁷ *ibid.* p. 3

⁴⁸ Broberg & Sano, (2018) p. 674

⁴⁹ *ibid.* p. 674

change⁵⁰. The former view believes that law adapts and becomes codified after change has taken place. The latter, however, refers to how law can initiate and enable change to occur in a proactive manner. The view that law has transformative potential, and can lead to change, is often associated with legal instrumentalism and can be seen as a policy tool for enabling change to happen⁵¹. This view, however, provides a fundamental risk of law being used as a political instrument by political powers. The view that legal provisions can lead to meaningful change has been criticized from several strands. For example, several commentaries believe that legal rules may have several indirect and unintended effects, and the view has also been subject to criticism due to its apparent ignorance in dealing with issues related to the relationship between law and power⁵². Nevertheless, from a human rights perspective, it is often argued that human rights law has greater potential to be an agent of change compared to other branches of law.⁵³ Most notably, this comes down to the fact that human rights law has the potential to produce checks on the powers of governments, as well as on other actors such as businesses and institutions, and hold them accountable for their actions. Despite the potential that human rights law arguably holds in leveraging change, there is still a lack of empirical evidence to suggest that law works in bringing about change, or if such change is only due to political decisions⁵⁴.

It is difficult to predict the result of introducing a HRBA to fiscal and economic policy, as well as to the implementation of SDG 10, especially considering the fact that the relationship between human rights and economics is fairly limited at this point. As mentioned above, and which will be discussed in chapter 3 and 4, there is no explicit right to economic equality per se, and human rights practitioners are often looking for loopholes in the vast normative body of IHRL to find possible avenues for tackling questions of fiscal and economic policy⁵⁵. Consequently, there is an inherent risk of a HRBA not being as effective as it could be if the fundamental questions of human rights' role with respect to economics are not addressed first. In addition, as questions of redistribution and economics are contested subjects and probably requires radical changes to the status quo, there is also a risk that a rights-based approach will

⁵⁰ Vandenhole & Gready, (2014) p. 296

⁵¹ *ibid.* p. 296

⁵² Vandenhole & Gready, (2013) p. 15

⁵³ *ibid.* p. 16

⁵⁴ Vandenhole & Gready, (2014) p. 296

⁵⁵ Balakrishnan, et al., (2016)

meet increased internal resistance by those in power. However, while aware of this possibility, this thesis is under the impression that such a framework represents a possibility to legally contest unjust fiscal policies, provide mechanisms of enforcement and accountability, and help ensure that both public and private institutions work together in reducing inequalities.

1.4 Methodology

In order to answer the research questions laid out in the introduction, the research will take on an inter-disciplinary approach. It will primarily draw on the two most dominant disciplines related to human rights, namely social sciences and law. It should be mentioned that conducting interdisciplinary research has been criticized for its perceived potential to result in “sloppy method or end up in a stodge of pure descriptivism”⁵⁶. However, in order to effectively answer my research question, adding more than one discipline will enhance the chances of successfully reaching a valid conclusion.

1.4.1 Social Sciences

Within social sciences, we can find three common methodological approaches; namely positivists, interpretative, and critical approaches. My research will take on a critical approach, which is usually connected to flexible designs and qualitative methods such as narrative research and case studies. When using a critical approach, the researcher does not take what they see for granted, but looks beyond to explore and analyze the institutions, social structures and distribution of power in order to understand why things are the way they are. A critical approach also involves trying to bring about social change, especially towards hegemonies of gender, race, class and geo-politics. My method will be qualitative, where research will primarily be drawn from materials and existing data produced by international organizations, NGO’s, online news reports, scholarly books, and journal articles.

1.4.2 Law

The discipline of law, which can be seen as more of a hybrid discipline, where empiricism gives more space to normativism. When it comes to human rights research, law plays a massive role and contributes greatly to offer an empirical understanding of how human rights works. Further, the large emphasis on texts and the normative nature provides us with good tools to better understand the meaning of human rights. My method of choice will be primari-

⁵⁶ Langford (2017) p. 166

ly doctrinal, which means research into the law and legal concepts and locating and analyzing relevant and applicable international human rights law. The corpus of primary and secondary legal material will be drawn from international treaties, general comments, and other official material within the human rights framework.

1.4.3 Limitations

When assessing the impact of certain governmental policies, it is important to be cautious when drawing your conclusions. This is especially true for human rights research, as it is often argued that difficulty arises when it comes to demonstrating causality. To elaborate, even if you have indicators that are believed to be suitable in order to measure the outcome of a certain policy, there are often several other factors besides policy that could have facilitated the measure of change.

Another issue is that researchers, including myself, should be aware that when doing normative and doctrinal legal research is related to clear differentiation between the “law as it is” and “law as it should be” (*lex lata* vs. *lex ferenda*). This thesis will discuss the “economics of rights”, such as the inclusion of an economic dimension within the larger normative understanding of equality, as well as questions related to resources and redistribution. These concepts are emerging and contested within human rights and economic circles, and it is therefore very important not to blur the lines between *lex lata* and *lex ferenda*. As mentioned by Fons Coomans⁵⁷, “the term emerging interpretations may provide a smokescreen for wishful thinking and researchers should use them sparingly”.

2.0 TOWARDS SDG 10: REDUCING INEQUALITIES

Before going on to address how the international human rights regime is well-equipped to tackle and address the growing threat of inequality, and how it can serve as tool to shape SDG 10 implementation, this chapter will first explore the context and origin of SDG 10, what it includes, and then go through the different targets to see if they are up to the challenge.

After the Millennium Development Goals (MDGs) reached its end date in 2015, the international community celebrated the success and progress towards achieving the eight goals.

⁵⁷ Coomans, et al., (2009) p. 14

However, despite the declared success in meeting many of the MDGs, the goals and its implementation did receive criticism, as observers raised concerns regarding the goals apparent failure in addressing inequalities⁵⁸. As governments implemented strategies and policies to reach the MDG targets, they commonly focused on implementing goals with clear quantitative indicators and targets, and celebrated aggregate progress towards meeting the goals while, at the same time, sidelining important development concerns. The exclusion of development concerns related to inequality contributed to fostering an environment of weak democratic governance and stronger institutionalized obstacles that has further disempowered vulnerable and marginalized people⁵⁹.

During the post-2015 SDG negotiations, both UN member states, civil society organizations, UN agencies, funds and programs, as well as actors from the private sector all called for inequality to be raised as part of the new Agenda⁶⁰. Due to the increased support and the determined advocacy efforts showed during the negotiations, their call was answered and the 193 UN member states managed to find agreement for the inclusion of a stand-alone goal on reducing inequalities when the final SDGs were adopted in September 2015. Laid out in SDG 10, states are formally obliged to make positive efforts towards “reducing inequalities *within and among countries*”. Its inclusion in the final SDG adaptation was celebrated by the human rights community and the international community, and has been described as a milestone in international cooperation as it was the first time that governments have explicitly agreed to work together in reducing inequalities⁶¹. The highly complex goal includes ten underlying targets that seek to tackle a wide range of themes related to inequality. As mentioned in chapter 1, these themes can be sub-divided into three different types of inequalities, namely horizontal inequalities, vertical inequalities, and global inequalities between states.

2.1 SDG 10 Targets: Up to the challenge?

In order to reduce horizontal and vertical inequalities within and among countries, SDG 10 introduces ten underlying targets that needs to be reached if states are to achieve the overarching goal. The first 4 targets set out to create standards for reducing both horizontal and vertical inequalities, while targets 5 – 7 are intended to set standards for reducing inequalities be-

⁵⁸ Fukada-Parr, (2019) p. 61

⁵⁹ *ibid.* p. 61

⁶⁰ Kuhn, (2020) p. 142

⁶¹ Center for Economic and Social Rights, (2016) p. 7

tween countries. Lastly, targets 7 – 10, usually referred to as target a. b. and c., introduce the means for implementing the goals and targets. Together, these ten targets address themes such as discrimination, social and political empowerment, income inequality, fiscal and wage strategies, and international financial regulation and democratic governance⁶². The goal on reducing inequality is in itself significant, as it symbolizes a remarkable shift towards a common international framework that seeks to attack vertical inequalities of income, wealth and social outcomes.

2.1.1 Targets on Vertical Inequality

Target 10.1 is the key target set up to tackle vertical inequalities in wealth, income and social outcomes within countries. The target states that “By 2030, progressively achieve and sustain income growth of the bottom 40 % of the population at a rate higher than the national average”⁶³. First off, since the target asks for faster income growth sometime before 2030, the target basically permits governments to continue as usual for another 10 years before progressively achieving income growth for the bottom fraction of the population. Further, it can be argued that the target does not actually address income inequality at all. As the target only entails the bottom 40 % of the population compared to the national average, the target fails to address one of the most important relationships within inequality, namely that between the bottom fraction and the top 10% and top 1%⁶⁴. To give an example, if governments implement policies which contributes to rising the income growth of the bottom 40 % compared to the national average, the inequality in income and wealth can still continue to increase between the bottom 40 % and the top earners of society. As such, the target fails to capture an important aspect of income inequality, and it could be argued that if the target is met, it is still fully consistent with overall rising income and wealth inequality and rather contributes to reducing national poverty.

Furthermore, target 10.1 requires income growth nationally if overall income inequality is to be reduced. As the target calls for a growth rate higher than the national average, the target runs in to trouble if the national average grows at a slow rate or not at all⁶⁵. If this happens, the bottom 40 % would essentially not be entitled to any sizeable growth in income. As slow

⁶² MacNaughton, (2017) p .1057

⁶³ UN General Assembly Resolution 70/1, (2015) p. 21

⁶⁴ MacNaughton, (2017) p. 1058

⁶⁵ Pogge & Sengupta, (2016) p. 94

economic growth of the national average is quite common within developed countries, target 10.1 seems to fall short in addressing the most important aspects of economic inequality as it actively links rise in income equality with national economic growth. During the negotiations, scholars, NGOs, and human rights experts voiced concern over how the target was framed, especially with regards to the apparent lack of including the important aspect of differentiated income distribution, which is that between the bottom 40 % and the top 10 %⁶⁶. To elaborate, instead of using the Gini coefficient Index, which is the most commonly used measurement of inequality, scholars have actively called for the use of the Palma ratio to quantify the degrees of inequality within states. Where the Gini index is said to be more susceptible to measuring changes related to the income inequality within the middle-pile of the population, the Palma ratio is known to be better equipped to measuring the extreme inequalities between those worst off and those at the top. Consequently, it has been argued that the target 10.1, which is the most important target within SDG 10, should be framed in terms of reducing the Palma ratio of countries to less than 1, instead of focusing on inequalities related to the economic growth of the national average⁶⁷.

2.1.2 Targets on Horizontal Inequality

As for horizontal inequalities, target 10.2 and 10.3 sets out to create standards for reducing inequalities that occur between culturally defined or socially constructed groups in society. According to target 10.2, countries are to “By 2030, empower and promote the social, economic, and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status”⁶⁸. This target, similar to target 10.1, has been subject to criticism for not having any measurable standard or benchmark attached to it. First off, while other SDGs use words and articulations such as “enforce”, “end” or “achieve”, target 10.2 use the words “empower” and “promote”. Such wording makes the target very imprecise, especially with regards to how progress can be measured or what amounts to achieving the target as a whole⁶⁹. When there is no clarity as to how progress can be measured, and most notably, no indicator to what amounts to succeeding in meeting the target, it becomes easy to argue that target 10.2 is not sufficient enough. The same can be said for target 10.3, which encourage states to “ensure equal opportunity and reduce inequalities of outcome, including elimi-

⁶⁶ Chancel, et al., (2018) p.10

⁶⁷ MacNaughton, (2017) p. 1059

⁶⁸ UN General Assembly Resolution 70/1, (2015) p. 21

⁶⁹ MacNaughton, (2017) p.1059

nating discriminatory laws, policies, and practices and promoting appropriate legislation, policies and action in this regard”⁷⁰. This target is also vague in its formulation, and there are no specific standards or targets for states to achieve.

The last target that addresses vertical and horizontal inequalities is target 10.4. The target commits member states to “adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality”⁷¹. It can be argued that this target is not really a target at all, but rather a “means” to reach more equality. Further, it is arguably the vaguest out of the four that seeks to tackle inequality within countries⁷². Today, it is vastly recognized that improved wage, fiscal, and social policies are great instruments towards achieving more equality. However, the question comes down to the parameters of such policies, and how and when they should be implemented nationally. If SDG 10 is to live up to its full potential, especially when it comes to reducing vertical inequalities, massive policy reform is needed at national and international levels. This requires a strong action agenda with clear and specific policy suggestions, which unfortunately remain absent from SDG 10’s underlying targets and indicators. Instead, the targets are vague, mostly not measurable, and does not specify deadlines for achievement. Nevertheless, all in all SDG 10 does represent a significant step in the right direction as it identifies and acknowledges the importance of reducing inequalities in order to end poverty and realize other development goals crucial for human well-being.

2.2 Implementation of SDG 10

Even though SDG 10 might have potential to galvanize a much-needed paradigm shift in the fight against inequality, the goal is not legally binding. Rather, it serves as a formal commitment on behalf of states. In addition, SDG 10 remains weak and politically vulnerable to strategic neglect, as well as political backlash⁷³. This is disappointing, and almost understandable, considering the fact that SDG 10 is probably the one goal that will require the most radical and long-lasting changes, which will lead to profound alterations in the current economic system. During the negotiations, economic inequality was not raised as a priority by any head of states, nor was it effectively prioritized in the first follow-up reviews conducted in 2016 and

⁷⁰ UN General Assembly Resolution 70/1, (2015) p. 21

⁷¹ *ibid.*

⁷² MacNaughton, (2017), p. 1060

⁷³ Saiz & Donald, (2017) p. 1030

2017⁷⁴. In addition to lacking the political will needed from governments, which was effectively shown during the negotiations, financial backing has remained frail and inequality reducing programs are said to be vastly under-funded⁷⁵. Further, Goal 10 does not have any effective institution or obvious thematic body set up with mandate to promote and drive actions towards implementation internationally⁷⁶.

Where most SDGs have been assigned institutional homes, such as different UN agencies, mechanisms or committees, that contributes to monitoring progress and holding decision-makers accountable, Goal 10 has been left without a clear authoritative body, something that has resulted in SDG 10 being left behind as an “orphan goal”⁷⁷. It should be mentioned that UN Women has to a certain degree taken horizontal inequalities, especially those related to gender, under its control, and other UN organizations such as UNICEF and the UN Research Institute for Social Development has contributed greatly in following up on implementation surrounding inequalities related to gender and other socially constructed groups⁷⁸. However, vertical inequalities in income and wealth, which remain one of the biggest challenges of our time, has been left without any international institution or body to monitor the progress of the goal and drive appropriate policy responses both globally and nationally.

At present, the only international mechanism in place for follow-up and review of SDG 10 is the High-Level Political Forum on Sustainable Development (HLPF). This overarching body is mandated to review state progress towards the achievement of all the SDGs. The HLPF mechanism perform their own thematic reviews, as well as national reviews where countries present national progress and efforts made towards achieving the different goals⁷⁹. Based on different successes and failures, HLPF provides states with input and feedback on implementation strategies and policy suggestions. When it comes to reviewing progress on SDG 10 implementation, the HLPF have stated that efforts have indeed been made in some countries to reduce income inequality. According to “The Sustainable Development Report 2018”, the general income of the bottom 40% has grown faster than the national average between 2010

⁷⁴ Chancel, et al., (2018) p. 17

⁷⁵ *ibid.* p. 17

⁷⁶ Saiz & Donald, (2017) p. 1030

⁷⁷ *ibid.* p. 1030

⁷⁸ Fukada-Parr, (2019) p. 67

⁷⁹ MacNaughton, (2017) p. 1040

and 2017 in 60 of the 94 countries with data available⁸⁰. However, as mentioned above, such progress does not necessarily say anything about the actual income inequality, as it does not address the issue of top income earners and their role in driving inequality. In fact, while the income of bottom 40 % have expanded globally, their income share amounts to less than 25 % of new income or consumption⁸¹. Further, as many of the targets are not easily measured and don't specify target deadlines, national reviews have often been vague and only included progress on some targets that are more easily measured than others⁸². In addition to the general lack of progress and SDG 10 review, the HLPF does not hold any real power, and their ability to hold states accountable is fairly limited. The publications of the 22 states that volunteered to for review in 2018 adds to the case of HLPF's weak and unspecified structure, as it was mentioned by several commentaries that this forum generally focused on positive feedback instead of discussing pressing challenges related to policies and strategy⁸³. HLPF's weakness is not only grounded in the mechanism's dependency on voluntary state-reporting, the political forum is also only granted a total meeting time of eight days per year⁸⁴. Consequently, the limited mandate of the forum, along with its weak structure, and the little time given to review country implementation, all adds to the call for a stronger global mechanism for SDG accountability and enforcement.

This chapter has demonstrated that SDG 10' has many shortcomings. In addition to containing frail targets with imprecise use of language that can jeopardize its realization and implementation, the goal also lacks an institutional home compared to many other SDGs. The apparent divide between official government commitments to reduce inequalities, and lack of financial, political and institutional backing at international level, leaves the goal in a vulnerable position of being entirely swept under the rug. This is frightening, especially considering the recognized importance that reducing inequalities have on the achievement of many other development goals⁸⁵. As such, there is a great need to explore other avenues which can have a positive effect on SDG 10 as an overall goal, how it is interpreted, and increase its potential to drive about progressive change on international and national level. The deployment of human rights standards, tools, and mechanisms could provide such an avenue.

⁸⁰ Report of the Secretary-General, (2019) p. 16

⁸¹ *ibid.* p. 16

⁸² Saiz & Donald, (2017) p. 1040

⁸³ Annuziato & Donald, (2018)

⁸⁴ Saiz & Donald, (2017) p. 1041

⁸⁵ Center for Economic and Social Rights, (2016) p. 13

3. THE UNTAPPED POTENTIAL OF HUMAN RIGHTS

In comparison to the Millennium Development Goals which received criticism for ignoring several human rights linkages, the 2030 Agenda sought to reflect human rights principles and standards in a much higher degree. In fact, the 2030 agenda is fully anchored in human rights and its preamble states that the main aspiration of the SDGs are to “realize human rights for all”⁸⁶. The resolution further states that the Agenda is unequivocally “grounded in the UN Charter, the Universal Declaration of Human Rights (UDHR), and international human rights treaties”, and points to the importance of how the individual goals must be implemented in a way that is consistent with international human rights obligations⁸⁷. Disappointingly, human rights provisions are never directly mentioned in any underlying target of any goal in the Agenda. As the 2030 Agenda has professed to take on a HRBA, it is frustrating to see that legally binding human rights standards are absent within the different goals. As such, none of the SDGs are fully co-existent with corresponding human rights, something that can undermine the 2030 Agenda’s pledge to take on a rights-based approach to SDG implementation.

In fact, the global consensus that resulted in the 2030 Agenda being launched marks an incredible shift that has the potential to change today’s prevalent “paradigm of rights”, thus arguably contribute to undermining and replacing the narrative of rights protection with a new narrative of global development goals⁸⁸. Especially when we look at the global attention, both in terms of time, focus, and resources spent towards SDG implementation, this can contribute to draw focus away from human rights implementation on the international stage. Such a shift would not necessarily lead to the disappearance of the human rights narrative, but the potential implications for human rights caused by the SDGs have been discussed by commentaries and deserves mentioning⁸⁹. It seems more likely, nonetheless, that the SDGs does provide an opportunity for human rights to flourish. Actually, the 2030 Agenda and human rights can be viewed as mutually reinforcing, and they can both be understood as two sides of the same coin⁹⁰. The achievement of one will contribute to the realization of the other. Especially considering the aforementioned weaknesses of Goal 10 targets, IHRL provides better standards

⁸⁶ UN General Assembly Resolution, the 2030 Agenda for Sustainable Development, (2015), p. 1

⁸⁷ *ibid.* p. 4

⁸⁸ Collins, (2018) p. 70

⁸⁹ *ibid.* p. 70

⁹⁰ Rattray, (2019)

than their weaker SDG counterparts, something that can help clarify the interpretation of targets.

However, if this mutually reinforcing relationship is to live up to its potential, the apparent linkages between binding human rights standards and the SDGs needs further exploration by the international community. As such, there is a need to reintroduce human rights into the SDG discourse, especially with regards to SDG 10 implementation. If we are to find the complex solutions needed to challenge the power imbalances which allows for the top end of the income spectrum to get too far ahead at the expense of others, the connections between human rights and inequality, both in terms of formal legal obligations and the detrimental human rights effects produced by extreme inequalities, needs further examination. At present, the gaps and inconsistencies between goal 10 commitments and human rights leaves the goal open to being swept under the rug. However, by ensuring that the implementation of the goal is consistent with IHRL, it can contribute to producing a consistent response that is strong enough to transform the “business-as-usual” structures and policies that drive the continuing rise of extreme inequalities.

3.1 Horizontal Inequality & IHRL

While human rights standards are not explicitly addressed in Goal 10 targets, as mentioned above, several human rights norms are well-equipped to advance the implementation of SDG 10 in extraordinary ways. When it comes to horizontal inequalities, the human rights regime certainly provides many standards that can be useful for the implementation of SDG 10. Standards and principles of nondiscrimination and equality can provide normative guidance in terms of SDG 10 implementation, and can be found in the International Covenant in Civil and Political Rights (ICCPR) and in the International Covenant of Social, Cultural and Economic Rights (ICESCR). Both ICESCR and ICCPR, which are the two most central and major multilateral treaties within the human rights regime, prohibit discrimination with regards to all the rights entailed in the treaties^{91,92}. The ICCPR also states that nondiscrimination is a “non-derogable” right, which means that it cannot be suspended, restricted, or limited in any way or for any reason. Further, ICESCR has elaborated on the nature of nondiscrimination as a guiding human rights principle in its General Comment 3 and 11, where the Committee specifies

⁹¹ ICESCR art. 2 (2), (1966)

⁹² ICCPR art. 27, (1966)

that nondiscrimination is not subject to the key principle of “progressive realization”⁹³. The concept of progressive realization acknowledges that while states have an ongoing obligation to take appropriate steps towards the realization of human rights, full rights realization takes time and cannot be implemented over night. However, the right to nondiscrimination is not subject to this concept and should be addressed immediately⁹⁴.

The Convention of the Elimination of Racial Discrimination (CERD), the Convention on the Rights of Persons with Disabilities (CERD), the Declaration on the Rights of Indigenous Peoples (UNDRIP), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) all provide further specification towards gender and racial discrimination, and contain more standards and provisions that can contribute to clarifying the expectations and lend influence to a more effective realization of SDG 10⁹⁵. These conventions provide anti-discrimination standards that are deeply embedded and rooted in international and national laws. The international standards set out in these conventions attempts to go past formal equality, towards the realization of substantive equality for all⁹⁶. Formal equality, which refers to the adaptation of laws and policies, are often not enough to make a difference, as much of the discrimination seen in today’s world is characterized by underlying structural disadvantages and biases based on perceptions, attitudes, biological distinctions, and in how laws and policies are implemented in context⁹⁷. As such, the human rights community has for long advocated that formal equality can never be truly satisfactory, and has subsequently worked and elaborated on how we can get past the deep historical inequalities and preconceptions that results in inequalities of outcomes, even where laws and policies are adopted in national law. The concept of substantive equality, which focus on equality of *outcomes* in addition to equality of *opportunities*, is concerned with the results of implemented laws and policies, “ensuring that they do not maintain, but rather alleviate, the inherent disadvantage that particular groups experience”⁹⁸. Guidance on the importance of achieving substantive equality has been expanded on in a detailed manner in CEDAW⁹⁹ article 1 and 3, and in the CEDAW Committee’s General Recommendation No. 25 on temporary special

⁹³ OHCHR, (2008) p. 13

⁹⁴ *ibid.*

⁹⁵ MacNaughton, (2017) p. 1051

⁹⁶ Saiz & Donald, (2017) p. 1035

⁹⁷ *ibid.* p. 1035

⁹⁸ CESCR, General Comment 16, (2005) para. 7

⁹⁹ CEDAW, (1979)

measures¹⁰⁰. The concept of substantive inequality is also specified in CESCR General Comment 16¹⁰¹, and it is well accepted by the international community that the ICESCR imposes legally binding duties on states to “respect, protect, and fulfil”, something which also captures a substantive understanding of horizontal inequality¹⁰².

As such, international human rights law has recognized that even though there are laws and policies in place that aims to treat people equally without discrimination based on gender, race, ethnicity, disabilities or other status, there will always be some structural sources of inequality and some degree of indirect and direct discrimination present, which in turn is spurred by socio-economic disadvantages and unequal distribution of power which hampers the equal enjoyment of rights protection. In addition to the reference to substantive inequality, a human rights-based understanding of inequality also highlights the interconnectedness and reinforcing character of inequality¹⁰³. This concept is often referred to as “intersecting inequalities”, and captures how, for example, gender inequalities are further manifested when it is combined with other discriminatory features such as race, ethnicity, age, or sexual orientation or other similar characteristics¹⁰⁴. As such, intersecting inequalities contributes to addressing the complexity of inequalities, and shed light on the fact that when inequalities overlap each other, it fuels and exacerbates the discriminatory effect of the other. The significance of intersecting inequalities is elaborated on in several human rights documents, including CESCR General Comment 20 on nondiscrimination in economic, social and cultural rights, which argues that multiple and cumulative discrimination has a unique and “specific impact on individuals and merits particular consideration and remedying”¹⁰⁵.

When it comes to SDG 10 implementation, the concepts of substantive equality and intersecting inequalities definitely provides a scaffolding, and can be very useful in guiding Goal 10 interpretation and also contribute to the design of policies. As mentioned in chapter 2, target 10.2 and 10.3 relates to tackling horizontal inequalities. In terms of policy setting at national level, target 10.2 calls for states to “empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or other

¹⁰⁰ CEDAW, General recommendation 25, (2004)

¹⁰¹ CESCR, (2005)

¹⁰² Center for Economic and Social Rights, (2016) p. 13

¹⁰³ CESCR General Comment 20, (2009) para. 17

¹⁰⁴ European Institute for Gender Equality, (2019) p. 4

¹⁰⁵ CESCR, (2009) para. 7

status”. When laws, policies and practices are produced towards the realization of target 10.2, they would be greatly enhanced with a human rights-based understanding of how inequalities are manifested in different societies, how they overlap, and how they reinforce each other. The human rights regime provides several standards that can shed light on these issues and help explain why some groups are systematically left behind. Target 10.3, which call on states to “ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard”, is more in line with human rights than any other target of Goal 10. This target acknowledges the complexity of horizontal inequalities and the importance of ensuring equality of outcome, not only equality of opportunities¹⁰⁶. When it comes to measuring progress towards the realization of target 10.3, the main indicator for progress is the “proportion of the population reporting having personally felt discriminated against or harassed within the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law”. As target 10.3 is the main target that seeks to tackle nondiscrimination, it is welcoming to see that its indicator is directly linked to international human rights law with regards to measurement progress. This linkage has not received as much tribute as it perhaps deserves, as it clearly connects the global disparities of inequalities with legally binding obligations under IHRL¹⁰⁷. However, the indicator is not flawless and there is potential for improvement. For example, putting all trust in personal reporting when it comes to measuring inequality is arguably inadequate and limited. Instead, the indicator and assessment procedures could have been even more connected to the human rights regime, by involving other human rights mechanisms such as international treaty bodies, when it comes to measuring progress. As such, a better indicator could arguably be related to improved compliance with nondiscrimination standards and provisions measured by designated treaty bodies. However, the potential of these mechanisms will be discussed in chapter 5. For now, it is worth noting that the normative framework provided by the international human rights regime is well-equipped to inform states on interpretation of Goal 10 targets and help guide policy choices. The instruments mentioned provide guidance on how states can accelerate their work towards equality. These instruments, also known as affirmative action measures, provide appropriate responses that recognize the indirect discrimination that makes it close to impossible for some groups to compete on equal terms, and the substantive content found in these respective hu-

¹⁰⁶ Saiz & Donald, (2017) p. 1033

¹⁰⁷ *ibid.* p 1033

man rights documents can greatly contribute to clarify, inform and guide policy implementation on the national and global level.

3.2 Vertical Inequality & IHRL

As discussed above, the international human regime undeniably contain standards that can be helpful towards achieving target 10.2 and 10.3 which address horizontal inequalities. However, it is more challenging to find appropriate human rights linkages to vertical inequalities, specifically inequalities that deal with the economic distribution of wealth and income in societies. This ties into the debate regarding human rights' relationship with economic inequality, which was elaborated on in chapter 1. While there are valid arguments on both sides of the debate, both academic strands seem to agree that inequality has instrumental importance in that it obstructs and have negative effects on the realization of human rights. Nevertheless, there has been little focus on economic inequality as an inherent injustice and as a social norm¹⁰⁸.

As Philip Alston notes¹⁰⁹, there is today “no freestanding right to economic equality, as such, in international human rights law”. As this statement holds true, and human rights don't necessarily set any ceiling in terms of what constitutes an appropriate gap in wealth between the “haves” and “have-not's”, there is a need for developing new norms that deal directly with distributive equality. Due to the silence on the specific gap between the poor and the rich, several human rights scholars have called for the human rights regime to go beyond the narrow focus of instrumental value and re-conceptualize economic inequality as a fundamental injustice¹¹⁰. Before going on to explore how existing human rights standards can be used to tackle the underlying structures of extreme inequality, it is worth exploring the potential of nondiscrimination and equality to be revitalized to directly address economic inequality as an injustice.

3.2.1 Revitalizing the Human Rights Principles of Nondiscrimination and Equality

At present, the right to equality and nondiscrimination are firmly established in international human rights law. However, the current interpretations of these principles have been very

¹⁰⁸ Fukada-Parr, (2015)

¹⁰⁹ Alston, (2015)

¹¹⁰ Aguilar & Saiz, (2016)

limited and are, as of yet, only really applicable to civil and political rights¹¹¹. This is baffling, especially considering the central and important standing that equality has as a guiding principle in IHRL in general. For example, UDHR article 1 states that everyone is “born free and equal in dignity and rights”¹¹². There is nothing to suggest that this only apply to civil and political rights and not to economic and social rights, as both ICCPR and ICESCR are part of the Universal Declaration. However, the choice of reading this article as only pertaining to “equal in dignity in *civil and political* rights” is consistent with the political rise of neoliberalism and its policies, and the general tendency to marginalize economic and social rights¹¹³. Such a narrow reading of equality and nondiscrimination was most likely not what its authors had intended, but rather something that has arisen from politics and not law¹¹⁴.

Both UDHR and the treaties that flow from contain several provisions on equality and non-discrimination. For example, such provisions can be found in UDHR article 1, 2 and 7, and in article 2 of both ICCPR and ICESCR. While all of these provisions arguably holds potential to address economic equality, this section will mostly focus on the potential of ICCPR article 26.

Laid out in ICCPR art. 26 “All are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political opinions, national or social origin, property, birth or other status”¹¹⁵. This provision cover four general ideas about equality; (1) equality before the law, (2) equal protection of the law, (3) the prohibition of discrimination, and (4) equal and effective protection against discrimination¹¹⁶. The multi-dimensional provisions laid out in ICCPR have the potential to address several types of nondiscrimination and equality. However, human rights instruments, such as the Human Rights Committee (HRC) which is responsible for monitoring and following up on ICCPR implementation, has never fully explained and elaborated on the different meanings and interpretations of art. 26¹¹⁷.

¹¹¹ MacNaughton, (2018) p. 105

¹¹² UDHR, (1948)

¹¹³ MacNaughton, (2018) p. 106

¹¹⁴ *ibid.* p. 107

¹¹⁵ ICCPR, (1966) p. 179

¹¹⁶ MacNaughton (2018). p. 111

¹¹⁷ MacNaughton, (2009) p. 50

While the four ideas of equality are mentioned in HRC's General Comment 18 on nondiscrimination¹¹⁸, these provisions are conflated into a single concept without any separate understandings. Instead, all provisions carry the same meaning of prohibiting status-based discrimination¹¹⁹. Not only has UN mechanisms taken on this approach, but most scholars and the academic community has actively combined the separate equality provisions into one standard of nondiscrimination¹²⁰. This is quite bizarre, as it is hard to understand why the drafters would include several separate articles in ICCPR carrying the same meanings. Most likely, the drafters had more in mind.

The ICESCR also contain several provisions of nondiscrimination. In similar to the ICCPR, we can find a general nondiscrimination provision in article 2, and there are also several equality provisions integrated within specific rights. Nevertheless, the ICESCR does not include an article with multi-dimensional provisions, such as ICCPR article 26. Consequently, it becomes arguable that the right to equality, as an independent and intrinsic right, does not apply to economic, social, and cultural rights. However, the HRC has demonstrated that the nondiscrimination clause of article 26 is applicable to economic, social, and cultural rights and not limited to the rights contained in ICCPR¹²¹. As such, article 26 can be invoked and provide judicial enforcement and protection against discrimination in the social and economic realm¹²².

As article 26 extends to economic, social and cultural rights, the multiple provisions found in the article holds great potential. According to the HRC, article 26 is concerned with legislation, and views article 26 and its multiple provisions as an intrinsic and autonomous right that “prohibits discrimination in law or in fact in any field regulated and protected by the public authorities”¹²³. Further, as the article is not limited to group-based inequalities or to just civil and political rights, the provisions therein should be re-interpreted to provide further clarification on what the different provisions entail. For example, the “equal protection of the law” provision in article 26 should, and can, guarantee equality to all rights found the ICESCR, and oblige governments to guarantee equality with respect to irrational and arbitrary laws and pol-

¹¹⁸ UN Human Rights Committee, general comment 18, (1989)

¹¹⁹ MacNaughton, (2018) p. 112

¹²⁰ *ibid.* p. 111

¹²¹ see *Brooks v Netherlands*, Communication No. 172/1984

¹²² WeiWei, (2004) p .18

¹²³ UN Human Rights Committee, general comment 18, (1989) para. 12

icies that contribute to fostering increased vertical inequality¹²⁴. Such an interpretation will also be more in line with the general purpose of the International Bill of Human Rights, namely to recognize “the inherent dignity” and “the equal and inalienable rights of all members...”. In other words, article 26 provides an opening for UN mechanisms, most notably HRC, practitioners and scholars, to clarify the freestanding right to equality laid out in ICCPR. General Comment 18 on nondiscrimination should also be replaced with new guidelines that alternates the general understanding, and status, of equality and nondiscrimination as a single status-based concept with a more detailed analysis of the provision’s distinctive meanings. Article 26 provides such an opportunity that the human rights community needs to take good use of.

Another possible avenue to further conceptualize the human rights principles of equality and nondiscrimination for the sake of addressing the impact of vertical inequality was pointed out by Philip Alston in his 2015 “Report of the Special Rapporteur in extreme poverty, and human rights”. In his report, Alston draws attention to the nondiscrimination provision found in UDHR, ICCPR, and ICESCR, which lists “property” as one of the prohibited grounds of discrimination¹²⁵. During the drafting of the article, the Soviet Union protested against deleting “property” on the basis that they viewed it as important that both the rich and poor have the same rights¹²⁶. In the Spanish version of the UDHR, the word “property” has been interpreted to mean “economic position” or “wealth”¹²⁷. Both the ICCPR and ICESCR lays out rules of interpretation, in their respective articles 53 (1) and 31 (1), stating that the French, Chinese, Russian and Spanish text are as equally authentic as the English version. Consequently, it is commonly argued and accepted that it is necessary to examine the text in other authentic languages to make sure that interpretation in one language is legitimate in relation to the other¹²⁸. As such, it is arguable that UDHR prohibits discrimination based on wealth and economic position in society. Since the grounds of discrimination presented in UDHR art. 2 applies to all the rights covered in the declaration, there is a chance that the UDHR and its underlying treaties prohibits wealth-based discrimination with respect to education, housing, social security, and so on, something which is clearly evident in today’s world. This potential prohibition

¹²⁴ MacNaughton, (2018) p. 125

¹²⁵ Alston, Report of the Special Rapporteur on extreme poverty and human rights, (2015) para 55.

¹²⁶ MacNaughton, (2009) p. 49

¹²⁷ MacNaughton, (2018) p. 126

¹²⁸ *ibid.* p 124

against discrimination should be further explored and analyzed by human rights mechanisms.

Based on the information above, it is clear that the human rights principles of equality and nondiscrimination holds great potential, and their possibility to play a bigger role in the fight against rising economic inequalities needs to be further explored by the human rights community. However, as such exploration will take time and resources, it is useful to take a closer look at how existing standards already codified in IHRL can contribute to tackling the phenomenon of vertical inequalities, and add insight to the implementation of SDG 10 targets.

4. ECONOMIC POLICY AS HUMAN RIGHTS POLICY

Even though it is commonly argued that the existing human rights provisions have little to offer in terms of clarifying expectations of SDG targets related to addressing vertical inequalities, existing human rights provisions does have a lot to say about the policies that fuels the disparities of extreme vertical inequalities. The new fiscal consolidation trend, characterized by large cutbacks in social spending and other fiscal and monetary measures, have been heavily implemented by most States all over the globe¹²⁹. Such fiscal consolidation, also referred to as austerity measures, can be defined as legal or policy changes which aim to lower public expenditures and tame growing sovereign debt burdens¹³⁰.

In the quest for economic recovery after the 2008 financial crisis, austerity measures have been actively implemented by a majority of governments, with the purpose of stabilizing economies, restoring decent work conditions, and recapture global investor interests and credit access.¹³¹ Especially in the global south, austerity programs characterized by public spending cuts and tax rises have been implemented heavily, with backing from international organizations including the IMF. However, these measures have not delivered on their promise, and there has been little, if any, positive effects in terms of resurrecting economic growth¹³². On the contrary, internationally backed fiscal consolidation programs have forced many governments to resort to spending cuts and implementation of tax policies that are discriminatory in nature. The negative impacts of these policy changes are vast and has resulted in increased

¹²⁹ Center for Economic and Social Rights, (2016) p. 7

¹³⁰ OECD, (2011) p. 18

¹³¹ CESR, (2018) p. 7

¹³² CESR, (2016)

growth of both social and economic inequalities¹³³. For example, the rising wave of privatization that has gone hand-in-hand with fiscal consolidation measures, has gradually pierced the public domain. Consequently, state functions that were usually controlled by governments such as health and education, are now becoming more privatized. Increased privatization, along with other measures such as progressive tax policies, have no regard for the human rights deprivations they bring along and the negative consequences it has for the lower income earners in society¹³⁴. As such, inequality is not a natural phenomenon, but something that stems from, and that is being perpetuated by, specific government policy decisions and actions.

If we are to deliver on the promise of reducing inequalities, and meet the targets that SDG 10 lays out, economic policies needs to be constructed and framed in a way so that it challenges the rise of economic and social inequalities instead of fueling them. As human rights do have a lot to say about the policies that leads to increased disparities, a holistic and integrated human rights centered policy approach should be implemented. Pre-existing human rights obligations already codified in international human rights law does provide standards and normative guidance that can contribute to push for economic policies that are sustainable, just, as well as fiscal alternatives that protects vulnerable populations and their ability to access goods and services¹³⁵. This section will further explore policy areas which can be strengthened by the incorporation of human rights norms and standards, and play a key part towards the implementation of SDG 10. We can divide the policy areas in which the human rights framework can provide guidance into two brackets; namely pre-distributive and re-distributive policies.

4.1 Pre-distributive Policies

A pre-distributive policy agenda revolves around the market place, and how it can be reshaped in order to promote more equal social and economic outcomes in society¹³⁶. As the laws and regulations that typify how the market place works has its own distributive consequences and generally affect who becomes the main beneficiaries in society, they can play a key role in mitigating inequalities. As pre-distributive policies are concerned with the struc-

¹³³ CESR, (2018) p. 5

¹³⁴ CESR, (2018) p. 13

¹³⁵ Center for Economic and Social Rights, (2016) p. 2

¹³⁶ *ibid.* p. 15

tural context, and not necessarily the distributive aspect of policies, a key policy area for pre-distributive regulations are related to the creation of labor market policies and protections, including employment rights¹³⁷. In fact, domestic labor market policies are known to have a significant effect when it comes to creating better standards of economic empowerment and on reducing poverty in general¹³⁸. This becomes even more important as the current austerity programs seen around the world today has brought about long-term unemployment trends, in addition to a general stagnation in income and increased job polarization.

Appropriate standards related to labor and wage policies are enshrined in numerous human rights documents, including UDHR, ICCPR, ICESCR, as well as in several conventions and recommendations by the International Labor Organization (ILO). Within the ICESCR, normative content on the right to work are addressed in article 6, 7, and 8, with separate General Comments elaborating on issues related to interpretation, and general guidance on issues that states have experienced with regards to reporting. For example, article 7 of the ICESCR provides a list of central components necessary to assure just and favorable conditions of work¹³⁹. This article has been further elaborated on by CESCR in numerous statements, including General Comment 23 on the right to just and favorable conditions of work, which has provided strong recommendations and statements in regards to policy areas that must be addressed in order to reduce inequality¹⁴⁰. The vast normative content found in these human rights documents can provide clear legal limits with regards to what policies governments are allowed to implement in their quest for fiscal consolidation. To give an example, as stronger austerity measures are implemented by governments, unions have gradually had their powers reduced, as new neoliberal economic structures are actively hampering their ability to collective bargaining leading to unions losing their ability to properly represent workers. The negative effects of reduced unionization are well documented, and it is scientifically proven that the weakening of unions have a positive correlation with an increase in top income shares compared to the rest, thus contributing to increasing vertical inequalities¹⁴¹. The collective dimension of the right to form and join unions, and the right for unions to function freely are core

¹³⁷ Center for Economic and Social Rights, (2016) p. 15

¹³⁸ Chwalisz & Diamond, (2015) p. 97

¹³⁹ ICESCR article 7, (1966)

¹⁴⁰ CESCR General comment 23, (2016)

¹⁴¹ Farber, et al., (2018)

human rights¹⁴², and when these are implemented fully, societies are more equal in terms of economic returns and higher levels of human development are also recorded¹⁴³. As such, letting labor institutions operate freely, and involving unions in the planning, implementation and evaluation stages of policy setting are key interventions to reduce inequalities.

The importance of wage protections in fighting inequality is also well documented, and unions and labor institutions should participate in making sure that appropriate wage standards are implemented and in compliance with international human rights. According to target 10.4, as mentioned above, governments are to adopt wage policies that progressively contribute to achieving greater equality. However, how to go about setting such policies in times of economic crisis are not always easy and straightforward, and it is here that human rights standards and instruments, along with organizations such as the ILO, can provide tools of fundamental importance. When attempting to meet SDG 10 and its underlying targets, governments should take good use of the vast normative content found in human rights conventions, as well as the recommendations provided by UN treaty bodies. This content, which has been built up and elaborated on for decades, can provide significant guidance on how to guarantee rights that do not discriminate, and promote substantive equality for all workers. UN Agencies and the ILO has considerable expertise and can provide advisory services with regards to national employment strategies and effective cooperation with states, something that the current SDG instruments are unsuited to provide alone. If appropriate labor standards are absent, it can have a negative effect on other human rights protections as well, such as gender equality¹⁴⁴.

4.2 Redistributive Policies

Redistributive policies are concerned with the distribution of market gains and outcomes, and represent a strong government tool that can be used for improving equality¹⁴⁵. In fact, evidence suggest that redistributive policies, by improved redistribution of income generating assets such as wealth, hold the greatest potential when it comes to reducing vertical inequalities and achieve SDG 10¹⁴⁶. In addition to being key in reducing vertical inequality, improved

¹⁴² ICESCR article 8, (1966)

¹⁴³ Center for Economic and Social Rights, (2016) p. 17

¹⁴⁴ *ibid.* p. 16

¹⁴⁵ Center for Economic and Social Rights, (2016) p. 20

¹⁴⁶ *ibid.* p. 20

redistributive policies holds great potential in terms of poverty reduction, and generally promotes values that are essential for sustainable development as a whole, as it encourages the establishment of a socio-economic environment that supports political and social participation, as well as economic stability and development¹⁴⁷. Even though effective redistribution can take place within a number of different policy spaces, such as in health and education, this chapter will concentrate on the policy areas of social protection and taxation.

4.2.1 Social Protection

Social protection, also referred to as social security, is proved to be an effective component for reducing inequality and promoting sustainable development¹⁴⁸. The set of policies that makes up a government's social protection programs can vary to large degrees depending on national conditions and local aims. Consequently, there are several definitions and approaches to social protection. However, for the purpose of this paper, social protection can be described as the set of policies designed to mitigate poverty, build resilience, and protect people in vulnerable situations throughout their life cycle¹⁴⁹. Social protection policies and programs includes transfers and benefits in order to protect vulnerable people with income security, usually involving those vulnerable as a result of unemployment, disability, old age, maternity or sicknesses¹⁵⁰. Social protection schemes usually address all of these groups, with different types of schemes and programs, and the transfers are usually made up by a mix of public social insurance that comes directly from employers and workers, and social assistance which include direct government assistance from the state budget¹⁵¹. As social protection has proven to be an essential measure for reducing all forms of inequalities, as well as an effective component when it comes to facilitating social integration and increasing universal access to health and education, social protection is emphasized and stressed in several SDGs. In addition to being part of SDG target 10.4, the importance of social protection is also included in targets 1.3, 3.8, and 5.4.

The concept of social protection is not new to national policy agenda's, but has in recent years started to evolve towards becoming more comprehensive and transformative in its aim to-

¹⁴⁷ Saiz & Donald, (2017) p. 1036

¹⁴⁸ Social protection & Human Rights, (2015)

¹⁴⁹ UN Economic and Social Commission for Asia and the Pacific, (2015) p. 34

¹⁵⁰ Saiz & Donald, (2017) p. 1036

¹⁵¹ International Labour Organization, (2019) p. 3

wards producing more sustainable societies. Usually, social protection has been viewed only a tool to reduce poverty, represented by a more fragmented approach characterized by short-term safety nets¹⁵². The approach of implementing “safety nets”, promoted by organizations such as the World Bank and IMF, has been weak in that it has only provided minor reparations to those left worst off, often leading to them falling back into poverty¹⁵³. However, a more rights-oriented understanding of social protection has slowly emerged as a concept that should play a more central key role on the development agenda¹⁵⁴. This shift is grounded in evidence suggesting that social protection improves social and economic equality, national resilience, and generally foster a solid foundation for sustainable development. For example, studies in OECD countries shows how social protection programs have mitigated income inequality by one third, resulting in the Gini coefficient being reduced by 25 per cent¹⁵⁵. Examples and studies from developing countries, such as South Africa, Brazil and Argentina, have also found positive correlations between social protection programs and highly lower levels of inequality. In fact, studies from Latin America have suggested that direct transfers alone can decrease the Gini coefficient ranging from 1 to 9 per cent in several countries¹⁵⁶.

Social protection is a human right anchored in art. 22 and 25 of UDHR, as well as being enshrined in art. 9, 11, 12 and 13 of ICESCR. The core idea derived from these rights is that everyone is entitled to a minimum standard of living that is adequate for the human well-being, and that is sufficient in terms of enjoying the highest attainable standard of physical and mental health, as well as having access to basic social services¹⁵⁷. More content on the right to social security has been developed and elaborated on by CESCR’s general comment 19, which lays out state obligations and what constitutes violations, in addition to explaining how this right can be implemented nationally¹⁵⁸.

Even though social protection is of high importance on the 2030 Agenda, the policies needed to actually achieve its underlying targets are not as clear. Even though all the SDG targets concerning social protection contain “means of implementation” targets, such as SDG target

¹⁵² UN Economic and Social Commission for Asia and the Pacific, (2015) p. 35

¹⁵³ Saiz & Donald, (2018)

¹⁵⁴ *ibid.*

¹⁵⁵ Saiz & Donald, (2017) p. 1036

¹⁵⁶ *ibid.* p 1037

¹⁵⁷ Center for Economic and Social Rights, (2016) p. 22

¹⁵⁸ CESCR, General Comment 19, (2008)

10.4, these do not necessarily provide any adequate course of action on how policies should be developed, implemented, and financed. It is here a HRBA to social protection can be extremely valuable. From a conceptual standpoint, a HRBA to social protection seeks to go beyond the fragmented and minimalist approach of providing minimum levels of protection, aiming towards a more egalitarian universalist approach that is less targeted, and include programs that seeks to achieve economic and social rights for everyone¹⁵⁹. As human rights are concerned with the aspect of intersecting inequalities, it will aim towards substantive equality of both opportunity and outcomes, making sure that marginalization is reduced and minimized¹⁶⁰. Consequently, by using principles and standards codified in IHRL as basis for all social protection policies and programs, and generally view social security as interrelated with all human rights, will be in line and contribute greatly towards the SDG promise of “leaving no behind”. It should be mentioned, however, that fulfilling the objective of providing universal social protection coverage that applies for everyone is costly with regards to resource constraints. However, studies done by the Global Partnership for Universal Social Protection has shown evidence on how 23 developing countries from different continents have successfully managed to implement feasible universal social protection coverages¹⁶¹. Further, the introduction of UN’s Social Protection Floor Initiative and the ILO’s Recommendation 202¹⁶² concerning national protection floors has received strong global support over recent years, and showcased how comprehensive social protection standards can become affordable¹⁶³. By using the established normative guidance on “maximum available resources”, and developing policies that are formulated in terms of human rights and legal entitlements, the social protection floor initiative represents a rights-based approach to social protection that avoids stigmatization and reaches the most disadvantaged in a carefully designed manner¹⁶⁴. Further, human rights centered universal social security programs have proven to deliver higher levels of implementation with better quality, and the programs also provide more value in terms of poverty reduction and equality in relation to costs, than other “targeted” social security programs¹⁶⁵.

¹⁵⁹ Saiz & Donald, (2018)

¹⁶⁰ *ibid.*

¹⁶¹ World Bank Group & ILO, (2016)

¹⁶² International Labour Organization, Social Protection Floors Recommendation, (2012)

¹⁶³ UN Economic and Social Commission for Asia and the Pacific, (2015) p. 35

¹⁶⁴ Center for Economic and Social Rights, (2016) p. 22

¹⁶⁵ *ibid.* p 22

Even though we are witnessing increased progress with regards to social protection implementation globally, more than half of today's population are without any sort of social protection coverage. To elaborate, only one out of three children are currently covered by social protection, only 41 per cent of women social protection benefits that can serve as income security during maternity leave, and out of all that suffer from any kind of disability worldwide, only 28 per cent are protected and covered with social protection¹⁶⁶. Based on these staggering figures, it is evident that human rights community, as well as development actors, still have a long way to go in fulfilling the objective of social protection for all. However, the 2030 Agenda does provide an opportunity for renewed efforts. What is crucial, however, is that the SDGs and the human rights community take good use of the obvious and clear synergies between the two agendas.

As mentioned earlier in this thesis, the SDGs does not always provide the clear direction needed in terms of achieving the ambitious vision of realizing development for all. What the SDGs does provide and represent, however, is a gigantic movement of global consensus, with huge amounts of resources and attention attached to it¹⁶⁷. This in itself makes the SDGs a tool with enormous potential. Since the targets related to social protection is weaker than their human right equivalents, the two strands need to take good use of each other and build on each other's strengths. Human rights represent an effective tool with legal basis for achieving the vision of social protection for all, and the SDGs arguably provide the global attention and responsiveness needed to realize the right to social protection enshrined in IHRL. Only through joint efforts and close cooperation can these mutual intersecting agendas be fulfilled. More specifically, from a normative standpoint, human rights provisions need to be better connected and actually become incorporated within the vague SDG targets. By grounding the normative framework of IHRL within the SDG 10, the SDGs will have greater chances of reaching the most marginalized and vulnerable, avoiding the trap of targeted programs where policies often benefit the top earners, as seen in many Latin-American countries. This does not seem too problematic or challenging, considering the fact that human rights already are unequivocally engraved in the official purpose and vision of the SDGs, and it is clearly stated that the SDGs "seek to realize the human rights of all". By hard-wiring SDG 10 targets and indicators around the normative framework on the right to social protection, states will also be

¹⁶⁶ International Labour Organization, (2019) p. 6

¹⁶⁷ Collins, (2018) p. 70

obstructed from choosing and implementing policies and strategies of their own choice, based on their own interpretations. This will serve to minimize governmental discretion and embed accountability as a critical part of the SDGs. However, if the human rights regime want to play a bigger role within SDG 10 and the implementation of policies related to social protection, both development and human rights practitioners must further explore how human rights standards can be used and incorporated more effectively as part of the SDGs¹⁶⁸. There is also a need for other influential actors, most notably the IMF, to change its practice in relation to social protection. If SDG 10 are to live up to its true potential, there is a need for all relevant actors to be on the same page. In fact, the IMF has been a driving force for the targeting programs and minimum safety nets that human rights seek to end¹⁶⁹. Considering the enormous reach and influence of IMF, the organization needs to learn from its past mistakes and evolve into a more progressive actor in the international sphere¹⁷⁰. On a positive note, signs of such changes are slowly becoming visible, and the organization has in recent times pushed in a more universalist direction with a greater focus on both horizontal and vertical inequalities¹⁷¹.

4.2.2 Taxation

In addition to transformative social protection programs, it is commonly argued that SDG 10 will never reach its goal of “ensuring inclusiveness and equality” if the skewed regressive tax systems seen in today’s world are not addressed. The implementation of regressive tax regimes has been a common adjustment measure within most austerity programs since the 2008 financial crisis, and has had a profound effect on increasing inequalities in wealth and income¹⁷². Tax policies are not just playing a role in fueling inequalities, they are also said to be government’s strongest tool when it comes to reducing income and wealth disparities¹⁷³. Even though the technical structure of tax systems can vary from country to country, they all have in common that they aim to raise revenue and ensure that resources are available to fund government operations, and finance public goods and services that are beneficial to economic growth and welfare in general¹⁷⁴. However, how government revenue is raised, through which

¹⁶⁸ Saiz & Donald, (2018)

¹⁶⁹ Alston, (2018)

¹⁷⁰ *ibid.*

¹⁷¹ *ibid.*

¹⁷² Alston & Reich, (2019) p. 16

¹⁷³ Center for Economic and Social Rights, (2016) p. 20

¹⁷⁴ Anon, (2004) p. 84

channels, and which segments of the population bear the highest tax burden, can have a profound effect on levels of inequality in societies. In this regard, we can divide tax systems into two brackets; regressive and progressive tax systems.

Regressive tax regimes can be portrayed in terms of lower-income segments of the population paying a higher fraction of their income than those at the top of the income specter. Regressive tax systems usually entail indirect taxes, such as consumption taxes in the form of value-added tax (VAT), turnover taxes, and taxes on foreign trade¹⁷⁵. Such taxes are easier to impose and collect, and are further characterized by very low levels of taxation on corporations and wealthy individuals¹⁷⁶. When taxes are in favor of capital and skewed against labor, leading to the heaviest burden being put on the shoulders of lower-level income segments, it has a disproportionate impact on the most vulnerable as it decreases the disposable income of low-level households in comparison to the wealthier elements of society¹⁷⁷. Progressive tax systems, on the other hand, relates to tax practices that aim to tax people differently in accordance with their ability to pay. As such, the rich and wealthy, as the highest earners of society, will be taxed at a higher rate than the low-income population. When tax policies are progressive, focusing on taxation of capital and other direct taxes, it is proven to have a positive impact on reducing inequalities. Progressive taxation systems are often found in developed countries and generally include broad-based consumption taxes, corporate income taxes, and direct individual income taxes¹⁷⁸.

There are huge contrasts in the levels of inequality between countries based on their tax systems. For example, according to a study done by IMF, vertical inequalities in developed countries that impose direct taxes is on average 20% less in comparison to less developed countries with little use of direct taxes¹⁷⁹. However, it should be mentioned that the introduction of regressive tax measures is not only done by less developed states. In fact, the G20 average statutory corporate tax, which amounted to around 40% in the 1990's has significantly dropped, and amounted to 28.7 % in 2015¹⁸⁰. These figures represent a general decline in tax productivity, something which has contributed to fueling spikes in inequalities. Furthermore,

¹⁷⁵ Balakrishnan, et al., (2016) p .53

¹⁷⁶ Center for Economic and Social Rights, (2016) p. 20

¹⁷⁷ Saiz & Donald, (2017) p. 1037

¹⁷⁸ Balakrishnan & Heintz, (2015) p. 53

¹⁷⁹ Ostry & Berg, (2014) p. 14

¹⁸⁰ OXFAM, (2018) p. 30

countries gather on average 40% of the VAT and other sales taxes, while only 14% of the personal income and corporate taxes available to them¹⁸¹. Several reasons can help explain the dramatic decline in tax productivity and the general failure when it comes to collecting taxes. These reasons revolve around the deals and exemptions that contribute to making sure that the richest and wealthiest, individuals and companies alike, manage to slip away from paying their fair share. Moreover, this is exacerbated by the global system of tax havens, which give companies and individuals the possibility to participate in tax avoidance and evasion under deep secrecy. The ability of companies to escape their tax responsibility has a huge impact on the state's ability to raise revenue. To give an example, If the Dominican Republic was to stop handing out exemptions to companies, it would be able to increase its annual health budget by 70%¹⁸². Furthermore, between 2017 and 2019, Uganda managed to lose 17.7 % of its collectable revenue due to tax exemptions to businesses¹⁸³. On a larger scale, around 7,6 trillion dollars of personal wealth are hidden in tax havens and developing countries are together losing around 170 billion dollars annually to tax evasion¹⁸⁴. When tax incentives and exemptions are undertaken by governments, they contribute to raising the personal income of the wealthiest in society, leading to governments having less money to spend on the realization of economic, social, and cultural rights. With regards to SDG implementation in general, increased revenue through taxation is said to be critical and an important tool in order to finance the 169 SDG targets¹⁸⁵.

Target 10.4 also refers to the importance of fiscal arrangements, such as increased taxation, when it comes to reducing horizontal and vertical inequality. However, erratically pursuing increased revenue without due regard for how that money is raised, and without thought for the consequences of how the revenue is distributed, can lead to extremely harmful effects with respect to the preferred and desired outcomes. For example, with the aim of increasing government revenue, Pakistan has increased its dependence on taxes with a raise on VAT and other indirect taxes with 48% over the last three years, something which leads to a heavily disproportionate and unfair tax system¹⁸⁶. It is here that human rights standards, tools and mechanisms can play a role in challenging such unfairness, and contribute towards enhancing

¹⁸¹ *ibid.* p. 30

¹⁸² *ibid.* p. 31

¹⁸³ *ibid.* p. 31

¹⁸⁴ *ibid.* p. 32

¹⁸⁵ Saiz & Donald, (2017) p. 1036

¹⁸⁶ OXFAM, (2018) p. 31

the quality and justness of tax policies by implementing provisions and standards already codified in IHRL. This will help prioritize resource allocation in an efficient and just manner and also strengthen government's accountability with respect to fiscal policy implementation.

Historically, tax policy and human rights has occupied two completely separate fields and has had little to do with each other. Even though it has been recognized that tax policy has had indirect impacts on human rights enjoyment for a long time, this limited connection was never fully expounded on or enough to fully bridge the two fields¹⁸⁷. Instead, tax experts and government financial bodies have remained rights-free zones where questions of human rights are rarely voiced, and human rights scholars alike have been late to the game and generally avoided engaging in technocratic fields such as fiscal and tax policy. However, the critical synergies between the two fields have gradually started to feature more prominently in policy debates over the last few years, and the economic and social consequences of tax systems are today more widely recognized¹⁸⁸. Even though there is no international human rights treaty that explicitly mention tax policy, taxation is a critical tool for the realization of human rights. In fact, taxation can affect human rights realization in several ways, most notably through resource mobilization, redistribution and tax evasion.

4.2.2.1 Resource Mobilization & the Principle of “Maximum Available Resources”

First off, human rights implementation requires resources. While civil and political rights are meant to be realized completely without regards for available funds, economic and social rights are subject to revenue constraints and resource implications, and a sufficient amount of available resources are needed in order to fully realize these rights. As such, resource mobilization through taxation is arguably governments strongest tool to finance the goods and services necessary to realize economic and social rights, such as health care, education, and social protection¹⁸⁹. The central importance of raising revenue to realize human rights is laid out in article 2 of ICESCR, which states that governments are to take proactive steps with the use of “maximum available resources” (MAR) to progressively realize the rights recognized in the convention without discrimination¹⁹⁰. As such, human rights do provide a widely-recognized principle that seeks to guide government action with regards to resource mobiliza-

¹⁸⁷ Alston & Reich, (2019) p. 3

¹⁸⁸ *ibid.* p. 3

¹⁸⁹ *ibid.* p. 15

¹⁹⁰ ICESCR article 2, (1966)

tion and how that revenue is spent. In addition to being explicitly mentioned in ICESCR, the principle of MAR has been further elaborated on in CESCR's general comment 3¹⁹¹ and in the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights¹⁹². Nonetheless, the concept where a state's obligation only extend to the maximum of its available resources is often viewed as a weakness within the realm of human rights, as lack of human rights implementation often comes down to states pleading a dearth of resources¹⁹³.

The common response of "not having enough funds" to realize economic, social, and cultural rights has been exacerbated by the fact that the respective states themselves have been responsible for providing the necessary calculations and presentable facts used to assess whether the principle of MAR have been used¹⁹⁴. Further, the "standards" that governments use to attribute and demonstrate its failure to raise resources, as laid out in general comment 3 and the Maastricht Guidelines, arguably fails to capture the several possibilities that states have when it comes to access financial resources. When MAR is examined on country basis, it has often been narrowly interpreted to examine what is currently available at that time¹⁹⁵. Consequently, the methods used have traditionally focused on the expenditure side of budgets in relation to what has been made available by previous policy choices, and not what could legitimately be available if governments were to implement appropriate human rights-based efforts¹⁹⁶. However, in recent years, several commentators, human rights actors, organizations and instruments, have gradually started to tackle and develop new clarifications, tools and techniques for assessing progressive realization of economic and social rights, as well as comprehensive analyses that measure government's use of MAR that goes beyond the constraints of expenditure budgets. For example, Center for Economic and Social Rights (CESR) has developed the OPERA framework for the purpose of providing a comprehensive framework for measuring and analyzing human rights compliance. Within this adaptable four-step framework, step three seeks to assess whether respective governments are devoting adequate resources from the perspective of MAR¹⁹⁷. What makes the OPERA analysis framework unique compared to other assessment techniques, however, is how the analysis not only measure how

¹⁹¹ CESCR General Comment 3, (1990)

¹⁹² ICJ Maastricht Guidelines On Violations of Economic, Social and Cultural Rights, (1997)

¹⁹³ Obenland, (2013) p. 1

¹⁹⁴ Alston & Reich, (2019) p. 22

¹⁹⁵ Obenland, (2013) p. 2

¹⁹⁶ Gaughran, (2015)

¹⁹⁷ CESR, (2017) p. 22

funds are spent from the expenditure side, but also how funds are raised and mobilized in relation to tax policy. Furthermore, both the expenditure and the revenue side of government budgets, as well as the major fiscal policy trends identified, are analyzed from the perspective of human rights principles such as participation, nondiscrimination, transparency and accountability¹⁹⁸.

Despite there being positive and notable efforts with regards to re-conceptualizing the concept of MAR in relation to taxation and rights policies, such as the OPERA framework, the majority of these recent developments are based on a perspective of violations¹⁹⁹. If governments are to fulfill its obligation to use MAR, more attention must be given to providing states with appropriate guidelines on how this can be applied in practice, in an affordable and efficient way. Even though analyzing the implications of government's failure to devote maximum available resources and scrutinizing fiscal policies in terms of human rights violations is a positive development, CESCR and other human rights organizations and instruments need to learn from other approaches such as the Social Protection Floor Initiative, which has centered the main part of its work on demonstrating the affordability of social protection and giving governments advice on implementation. In the same way, evidence and advice on how resources can be raised and collected through taxation, in an efficient and human rights-centered manner, must be further explored within the human rights community. Nevertheless, when it comes to raising revenue, reduce inequalities and achieve SDG 10, the human rights principle of MAR can be serve as a key function that provide much needed legal force towards making sure that governments collect revenue in a just, progressive, and nondiscriminatory way that seeks to realize human rights.

4.2.2.2 Redistribution & the Principle of “nondiscrimination”

Redistribution revolves around how the funds generated are to be invested back into society. How resources are distributed back to the people is often subject to discrimination, both directly and indirectly, something which leads to negative and disproportionate effects on the poorer fractions of society²⁰⁰. When discrimination appears within the redistribution aspect of taxation, it is evidenced to sharpen inequalities and further deepen structural problems in so-

¹⁹⁸ *ibid.* p. 3

¹⁹⁹ Alston & Reich, (2019) p. 23

²⁰⁰ *ibid.* p. 4

cieties²⁰¹. As such, if we are to achieve SDG 10 and reduce inequality worldwide, it is of extreme importance to make sure that the fiscal policies that target 10.4 calls for are implemented in ways that do not discriminate, but rather seeks to deliver public goods and services that consistently reaches the most vulnerable populations.

From the perspective of human rights, the principle of nondiscrimination is at the heart of all rights incorporated in the ICESCR. As argued earlier in this thesis, even though a right to equality is absent from IHRL, the principle of nondiscrimination offer an alternative framework that is centered around equality, and one that represents a widely-recognized and internationally accepted principle that can help offer a legal and normative basis with regards to determining the unjustness and inequitable nature of government redistribution. However, the idea of what amounts as fair or just on a specified level with regards to redistribution is complex, and nothing that human rights provides directly. However, as human rights are concerned with the realized outcomes that forms the freedoms that people enjoy, what amounts as a “fair” and “just” from a human rights perspective can be said to be the level of distribution that provides for the highest level of realized human rights²⁰². As such, a HRBA to redistribution would imply that policymakers pursues policies that aim towards providing the highest possible level of human rights enjoyment, in a way that is consistent with the principle of nondiscrimination²⁰³. For example, as education is proven to be a strong tool with regards to reducing inequalities and a well-recognized human right, governments must make sure that educational services are available in sufficient quantity, acceptable, and accessible to everyone without discrimination, as well as adaptable to the needs of everyone based on social and cultural standings in society²⁰⁴. The same can be said for other basic services crucial to reducing inequality, such as health services and affordable housing, which are also subject to IHRL. As with education, these services must be delivered without discrimination and must be accessible and available from an economic and physical standpoint²⁰⁵.

When human rights realization and nondiscrimination guides government redistribution policies instead of technocratic concerns, especially with regards to education, health, housing and social protection, it is evidenced to have a very high multiplier effect and a positive im-

²⁰¹ Center for Economic and Social Rights, (2016) p. 27

²⁰² Alston & Reich, (2019) p. 25

²⁰³ Gaughran, (2015)

²⁰⁴ CESR, (2014) p. 8

²⁰⁵ *ibid.* p. 9

pact on economic recoveries²⁰⁶. The vast amount of human rights provisions and principles can thus provide governments with plans for action in their efforts of creating and implementing progressive fiscal policies, tax regimes and distribution strategies that redress both vertical and horizontal inequality, and limit the human rights disparities that such inequalities fuel.

4.2.2.3 Tax Avoidance, Tax Abuse & “Extra-territorial Obligations”

A third area of convergence and the last human rights principle that will be discussed with regards to taxation, and which can serve as an important tool in reducing inequalities, is the concept of “extra-territorial obligations” (ETO). While not discussed in depth in this thesis, SDG 10’s effort towards reducing inequalities between states obliges governments to assess what degree their actions have negative effects on other states. With regards to taxation, there is no denying that one state’s tax policy and rules towards corporate tax conduct can have enormous negative effects extraterritorially, and are not restricted to the sovereign territory of a single state²⁰⁷. However, as the world has become more and more globalized, transnational corporations and enterprises have gradually received more and more power at the expense of the classical state and government as the key actor. However, as regulatory international frameworks have remained weak, leading more and more corporations and wealthy individuals to slip away from paying their fair share of taxes, it was sad to see SDG 10 failing to include targets that aim directly at tackling tax abuse, shut down tax havens, eliminating unjust tax incentives and generally improving frameworks that can regulate corporate behavior. This seems begrudging, especially considering the immense spillover effect that such practices have on other states’ ability to actively raise resources in an equitable manner²⁰⁸. As such, when cross-border tax evasion and avoidance occur, it hampers states’ ability to raise revenue that could be used to implement human rights. Such practices have a particular negative impact on low-income countries and their populations, especially those more vulnerable. If the world is to reduce inequalities, both within and between countries, and implement progressive tax regimes that will contribute toward this goal, such practices must be abolished. In order to do this, the human rights regime can play a key actor.

From a normative standpoint, much have been written with regards to the extraterritorial human rights obligations of states. Even though many have argued that the current work on ETO

²⁰⁶ Center for Economic and Social Rights, (2016) p. 5

²⁰⁷ *ibid.* p. 31

²⁰⁸ De Schutter, (2019) p. 67

have failed to extensively tackle the impacts of tax regimes and how it effects countries obligations to use “maximum available resources”²⁰⁹, the widely-recognized and internationally accepted “Maastricht Principles on extra-territorial obligations” does provide commentary on human rights obligations in relation to taxation effects abroad²¹⁰. For example, according to Principle 17 “states must elaborate, interpret and apply relevant international agreements and standards in a manner consistent with their human rights obligations. Such obligations include those pertaining to ... taxation”²¹¹. Moreover, Principle 29 provides that states must make sure and take deliberate and targeted steps to create an “international enabling environment” that is favorable for the progressive implementation of economic, social and cultural rights, “including in matters relating to bilateral and multilateral trade, finance...and taxation”²¹².

Another positive development in this regard can be found in the “UN Guiding Principles on Business and Human Rights” (UNGPs). Despite not addressing tax policies directly, the principles laid out in UNGPs does provide valuable material on how non-state actors have human rights duties with regards to their actions abroad²¹³. Furthermore, prominent human rights scholars and law associations have provided extensive commentary that links the UNGPs to taxation practices and human rights. For example, former UN Special Rapporteur on extreme poverty and human rights, Magdalena Carmona, has stated how businesses that avoid paying taxes are in violation of their responsibility to respect, as such avoidance deprive countries of resources needed to fulfil human rights obligations²¹⁴. In addition, the International Bar Association has also elaborated on how the UNGPs does clarify state and governments obligations in making sure that their operations don’t lead to increased human rights disparities with regards to tax practices²¹⁵.

A normative evolution with regards to taxation and human rights is also being advanced by human rights instruments and treaty bodies in their recommendations, general comments, and concluding observations. Over the last five years, CESCR have actively issued recommendations that revolves around unjust tax policies and practices. For example, the 2016 Concluding

²⁰⁹ Alston & Reich, (2019) p. 23

²¹⁰ UN General Assembly, Maastricht Principles on Extraterritorial Obligations of States, (2011)

²¹¹ *ibid.* p. 8

²¹² *ibid.* p. 10

²¹³ Kohonen, et al., (2019) p. 386

²¹⁴ UN Human Rights Council, (2014) para. 7

²¹⁵ Kohonen, et al., (2019) p. 387

Observation to the United Kingdom called on the state to take strict measures towards the apparent tax abuse by wealthy individuals and abolish rules and tax legislation that hinders the government from meeting their obligation to mobilize maximum available resources²¹⁶. Furthermore, The Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child (CRC) have also expressed concern to states regarding domestic tax policies and provided recommendations which calls on states to undertake independent and participatory assessments that studies the extra-territorial effect of their tax policies on human rights realization abroad and domestically²¹⁷. The recent and much welcoming trend of further expanding the normative framework of taxation and human rights, especially when it comes to constraining businesses' ability to avoid taxation and other states' capacity to facilitate such avoidance, is crucial for SDG 10 and sustainable development as a whole. As the SDGs fail in providing targets that tackle these practices, the human rights regime can provide valuable insights, tools, and legally binding provisions to help guide state implementation. Implementing progressive tax regimes and abolishing cross-border tax evasion and avoidance are one of government's greatest tools when it comes to reducing inequality, and human rights have much to offer in terms of informing and guiding interpretation and implementation of such tax regimes.

5.0 Enforcement & Accountability

A key feature of a HRBAs is the availability of holding governments to account. As mentioned in Chapter 2, a notable weakness of SDG 10 is that it has no institutional home or thematic body with mandate in terms of monitoring progress and holding decision-makers accountable. Instead, SDG 10 is only subject to the weak power of the HLPF, which serves as the overarching body responsible for reviewing implementation progress of all 17 goals. Considering the fact that SDG 10 probably requires the most radical and long-lasting changes out of all SDGs, the goal is in dire need of positive engagement from other effective accountability and review mechanisms. As argued throughout this thesis, SDG 10 and the concept of inequality highly resonates, and is a central component of international human rights. Consequently, the UN treaty bodies and other mechanisms that review and monitor state's obligations in relation to these rights can play a key role with regards to SDG implementation. This

²¹⁶ Committee on Economic, Social and Cultural Rights, Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland, (2016)

²¹⁷ Alston & Reich, (2019) p. 12

last chapter will further explore how human rights mechanisms can contribute in delivering properly functioning accountability mechanisms that will help strengthening effective implementation and boost much-needed political commitment for reducing inequalities.

The human rights framework offer a web of effective international monitoring and accountability mechanisms that could prove extremely valuable in strengthening accountability for SDG 10. These mechanisms can contribute in enabling positive state behavior with regards to SDG 10 implementation by shedding light on government's obligations as duty bearers to take responsibility for their actions, making sure that decisions-makers are answerable with respect to their actions, and make sure that corrective functions are in place with regards to providing fair remedial actions to victims²¹⁸. As mentioned earlier in this thesis, several scholars hold the belief that "human rights have nothing to say about inequality". Yet, according to the SDG-Human Rights Data Explorer, a searchable database developed by The Danish Institute for Human Rights for the purpose of providing links between the SDGs and applicable human rights information, shows that inequality, both horizontal and vertical, has been explicitly mentioned by various UN treaty bodies and UN Special Procedures in over 800 recommendations and concluding observations between 2007 and 2018²¹⁹. These recommendations and concluding observations have generally focused on areas concerning inequality with regards to poverty and discrimination, and have been reviewed in terms of access to education, health, housing and employment²²⁰. Consequently, UN human rights mechanisms have a long track record of highlighting social and economic obligations that has clear links to rising horizontal and vertical inequalities.

Another very positive development is that UN treaty bodies have also started to show more concern for taxation and the economic policies that hinder human rights enjoyment, shedding very important light on the significance of progressive tax systems and redistribution policies²²¹. While many of these recommendations have historically shied away from providing detailed plans for actions, rather being generic in their response by recommending states to "continue efforts" to ensure that inequalities are reduced with regards to the distribution of wealth, CESCR, the CEDAW committee, and CRC, to name a few, have since 2015 issued detailed recommendations that calls on states to address financial secrecy rules, corporate tax

²¹⁸ United Nations, (2013) p. 11

²¹⁹ Jensen, (2019)

²²⁰ *ibid.*

²²¹ Aguilar & Saiz, (2016)

legislation, austerity measures and introducing questions of how such policies affect states' ability to meet their obligation of mobilizing maximum available resources to implement human rights²²². The tendency of calling on states to take specific measures with regards to economic policies in the actionable part of recommendations and concluding observations will help boost the legitimacy of questions regarding human rights and economic inequality to a large degree, and also have a positive effect on the answerability of states. It should be mentioned, however, that these concluding observations and recommendations are solely based on reports provided by governments themselves, and the answers provided in response to these self-made reports by treaty bodies are seldom communicated effectively to civil society²²³. When civil society are left out from the process of treaty monitoring, there is little chance of its recommendations receiving the much-needed awareness and attention it deserves in national debates, something which will have a negative effect on perhaps the most important aspect of accountability, namely that of changing state behavior and influencing state conduct.

One international human rights mechanism that does open for the active participation of civil society, and perhaps the greatest international human rights tool that can be used with regards to monitoring implementation of SDG 10, is the Universal Periodic Review (UPR). Under the auspices of the Human Rights Committee, the UPR is a peer-review mechanism created to assess states' fulfilment of human rights obligations, and it provides states with the opportunity to show what actions they have implemented to improve human rights protections in their respective countries²²⁴. What makes the UPR process unique is its comprehensive nature in terms of reviewing all human rights standards, and the room it provides to national human rights institutions (NHRIs), academic institutions, NGOs, and other civil society actors to produce and share their own views of local human rights situations²²⁵. These shadow reports will always serve as the factual foundation, alongside reports provided by governments, when UPR review, assess and prepare recommendations. As such, the UPR opens up for civil society to play a greater role as watchdogs in human rights monitoring, something which will lead human rights issues to get increased attention on the national stage, hopefully contributing to influencing state conduct on a larger scale. With regards to monitoring implementation of SDG 10, the UPR guidelines states that the mechanism is set up to assess country's adherence

²²² Alston & Reich, (2019) p. 45

²²³ Saiz & Donald (2017) p. 1041

²²⁴ Elson & Balakrishnan, (2011) p. 13

²²⁵ Saiz & Donald, (2017) p. 1039

to human rights treaties, as well as its “voluntary pledges and commitments”²²⁶. Consequently, as the SDGs can be viewed as a voluntary commitment on behalf of states, it becomes arguable that the peer-review mechanism of UPR can be actively used to monitor the implementation of the SDGs. As not only Goal 10, but all of the SDGs are grounded in human rights, the UPR could provide a new procedural layer of accountability, instead of solely relying on the HLPF²²⁷. Around 90 % of all SDG targets have connections to legally binding human rights provisions²²⁸, something that naturally opens up for a new type of SDG monitoring; one that provides new benchmarks for monitoring progress on the basis of human rights. This is a unique opportunity that should be further explored by the international community. Instead of relying on the inadequate official SDG indicators grounded in “big data” when reviewing progress, utilizing the UPR mechanism by the introduction of a HRBA does provide a more qualitative alternative that is more robust, legally-binding, and supported by a large amount of jurisprudence and valuable interpretations found in general comments and other official human rights documents²²⁹. The extensive work provided by the human rights regime, which would serve as basis for monitoring SDG implementation if the UPR was to be involved, would most likely result in more specific state recommendations that are focused on the underlying structural problems of inequality. Further, as the UPR opens up for civil society engagement in a much larger degree, state pressure would naturally increase on the local level which will most likely strengthen political commitment towards implementation.

In fact, it is arguable that SDG 10 will never be fully implemented without the active participation of local level actors and civil society as a whole, especially considering the radical policy changes this goal acquires. Most notably, National Human Rights Institutions (NHRI) can act as a key facilitator when it comes to SDG 10 implementation on the national stage²³⁰. As NHRI serves as an independent state institution with mandate to ensuring that human rights obligations are upheld by states, they are uniquely positioned to play a key role in promoting, monitoring and reviewing SDG implementation on the basis of human rights²³¹. In addition to monitoring human rights protection and promotion, the Paris Principles adopted by the UN General Assembly states that NHRIs are to play a key role in advising government and deci-

²²⁶ UPR Info, (2014)

²²⁷ Center for Economic and Social Rights, (2016) p. 38

²²⁸ UPR Info, (2018)

²²⁹ *ibid.*

²³⁰ Filskov, (2017) p. 5

²³¹ Jensen, (2015) p. 3

sion-makers on policy, and making sure that these policies are compliant with international human rights obligations²³². Since NHRIs are positioned between civil society and the government, these institutions should work actively towards enhanced collaboration and participation on the local level. Creating synergies between sectors will be crucial for triggering the huge change of behavior needed at government level, and NHRIs are uniquely positioned to facilitate this. By giving NHRIs increased space and an official role with regards to SDG implementation, these institutions can contribute in providing important information and data regarding the performance of SDG strategies, provide rights-based tools that are necessary to analyze policies efficiently, and influence the national accountability architecture to show increased respect for human rights²³³.

6. CONCLUSION

The rising gap between the rich and poor is commonly argued to be one of the biggest challenges of our time. Triggered by the introduction of austerity measures, governments have actively implemented regressive tax regimes, opened up for waves of privatization, and engaged in large cutbacks to social spending. These trends have resulted in sharpening extreme inequalities all over the world. While the issue of horizontal and vertical inequality has long been on the radar of international development, which led to the inclusion of SDG 10 in the final 2030 Agenda, the human rights regime has only recently started to engage with questions of economic inequality and its implications for the realization of human rights. There is no denying that extreme inequality has a negative impact on human rights, especially when it comes to the enjoyment of social and economic rights. Nevertheless, the human rights framework has remained relatively silent on issues related to economic inequality during its 70-year lifespan, and contrasting arguments regarding its relevance and effectiveness to tackle economic inequality has flared up in scholarly debates over the last few years.

This thesis has aimed to further explore the relationship between human rights and inequality, and see if the current human rights framework is applicable to challenge the extreme rise of inequalities that SDG 10 sets out to address. Even though IHRL do not provide a right to economic equality per se, the human rights framework does provide standards and tools that could contribute greatly towards achieving SDG 10 and its underlying targets. As these tar-

²³² UN General Assembly, Principles relating to the Status of National Institutions, (1993)

²³³ Jensen, (2015) p. 4

gets are vague, non-binding, and without clear actionable plans, human right standards could prove essential in guiding states towards more just and equitable policies that will help reducing inequalities. For example, the widely recognized human rights principles of equality and nondiscrimination offer an alternative framework that is centered around realizing substantive equality in both opportunity and outcomes, and tackling the systemic discrimination that fuels extreme inequality. The vast amount of normative content surrounding these human rights principles can provide a much-needed procedural layer to SDG implementation and contribute greatly to the setting of national policies.

Further, this thesis has explored how human rights can inform and guide the pre-distributive and redistributive policy action agenda's that SDG 10 calls for. From a pre-distributive aspect, human rights provide several standards that can prove valuable for determining the rules of the market place, especially when it comes to labor protections which is viewed as a key policy area that governments can influence to reduce inequalities. As for redistribution, this thesis has taken a closer look at the potential of human rights principles and tools to guide the design and implementation of progressive social protection programs, as well as taxation policies.

All in all, this thesis has argued that SDG 10 and its underlying targets will never be fully achieved unless governments radically change their approaches to economic policy. The current focus of relying on markets and GDP growth and other technocratic decisions will never be enough to challenge the unfair socio economic structures that fuel extreme inequality. Human rights, however, provides a more robust and legally binding framework that can contribute in ensuring a more sustainable and fairer form of economic governance, one that is expressed in terms of the fulfillment of human rights. Exactly how human rights standards and tools can be applied within the realm of economic policy is underexplored by the international community. Nonetheless, human rights as an international framework is flexible and open for change. More and more human rights organizations are starting to frame economic policy as human rights violations, and treaty bodies are also looking into the extra-territorial human rights effects of such policies, pursuing accountability in areas which have usually been rights-free zones. Yet, the human rights regime still has a long way to go before it can truly make a difference and alter the current socioeconomic structures. At this point, most of the work surrounds exposing the negative effects of regressive fiscal policies as human right violations. What is needed, however, is more practical human rights-based solutions that governments can implement. These solutions need to go past the focus of legality, and embrace the complex nature of reducing inequalities which will require insight and tools from different

sectors. To elaborate, introducing a HRBA to fiscal and economic policy will most definitely require tools that are more familiar to economists, as well as tools that are more familiar to tax experts. Consequently, inter-disciplinary partnerships and approaches will be crucial. When different actors go together, aligning different methods into a single and well thought-out process, it will hopefully lead to building a stronger evidenced-based case for human rights-based policy agendas, something which will be important for triggering the huge change of behavior needed at government level.

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