

LEVERAGING RIGHTS FOR A JUST RECOVERY

LEARNING FROM OUR COMMUNITY
OCTOBER 2021

WHAT DID WE DO?

In late September, the Center for Economic and Social Rights (CESR) organized two community calls with partners and allies from across the social, economic, and environmental justice movements on mobilizing for rights-based economic transformation in the wake of COVID19. Around 20 people joined the two calls—a diverse group of activists and advocates from around the world, whose works spans a range of issues from the local to global level. This was the third time we organized these calls. As in previous calls, the idea was to come together in a more informal way; to collectively reflect on shared challenges and opportunities; to explore synergies between our efforts; and to create space for more open conversations and spontaneous connections.

In the April calls, we mapped out where we were seeing receptiveness and resistance to human rights in the COVID-19 advocacy landscape and started to identify factors contributing to this. Some of the issues flagged included: skepticism about the power of rights as a counterweight to neoliberalism; uncertainty about how rights can contribute to identifying concrete policy solutions, beyond just setting out general principles; and weak recognition of the obligations of international institutions. The calls in September were **an opportunity to dig deeper—and brainstorm ways to address—some of these challenges, to untap the potential of human rights to frame demands for economic transformation.**

We're so grateful to everyone who shared their wisdom on this topic so generously. Highlights from the discussion are summarized in this short reflection note.

WHAT DID WE LEARN?

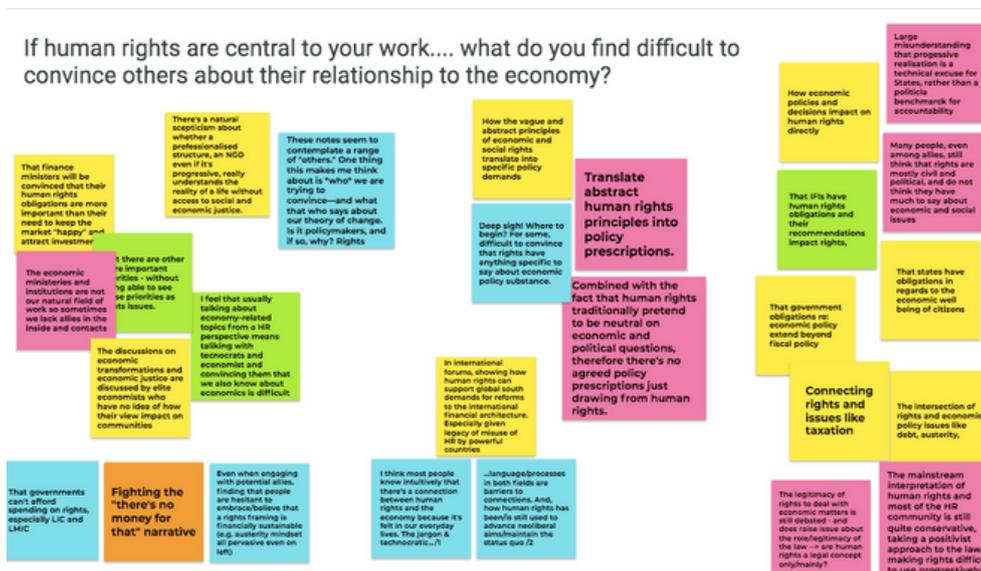
Different groups have different perspectives on rights, depending on how they've engaged with them in their work. But **often conversations about rights are happening in silos.** We might see international law experts debating the nitty gritty of how to interpret particular provision in a particular treaty, for example. We might hear politicians claim a particular policy advances rights, without being able to convincingly say why.

We might hear activists use rights in their discourse—repeating slogans like “healthcare is a human right”, for example—but then dismiss them as being meaningless for ordinary people. To understand these different perspectives more systematically, we started by mapping them out. We then explored where there might be opportunities to spark new conversations that can build synergies across groups.

Better appreciating different perspectives on rights

Participants were asked to indicate the degree to which rights feature in their work and then answer a corresponding prompt question, using sticky notes on a virtual board as shown below. In full group, we discussed: What patterns or interesting things do you see? What are you encouraged by? What are some useful questions to ask of the board?

As it turned out, most people on both calls had touched on rights in their work, at least to a degree. In fact, rights were central in the work of almost everyone on the second call. Nevertheless, the prompt questions encouraged participants to “put themselves in other’s shoes”, which helped bring different perspectives into the conversation.



So, **how have human rights been useful for groups that did not frame their work explicitly around them?** A key theme in responses was that rights shift the conversation away from philanthropy and charity, towards entitlement and what people deserve. This framing has “broad legitimacy” and “helps build consensus” around a common agenda. It can also help to “turn the tables” on who is responsible for injustices in the global economy.

That said, several people felt that **rights would be more useful if they were better aligned with development agendas and could support an economic case for “doing the right thing”**. In some contexts, this is more persuasive than “you have a duty” to protect people’s rights. Concretely, this could mean drawing on human rights standards and principles to shift people’s perspective on what it means to have a “good” economy.

For groups immersed in human rights work, a challenge in convincing others about their relationship to the economy is the **difficulty of identifying concrete policy demands**. Comments included that sometimes “we don’t even know what to ask for” and other times it seems “like we’re asking for everything”. Because it’s complicated to agree on a position, completely opposite policy proposals can both claim to promote people’s rights. This highlights the importance of connecting specific ways people are deprived of their rights to a critique of the economic system as a whole—something we can learn from the feminist movement.

In discussing this issue, a key theme to emerge was **the interplay between the substantive entitlements and procedural protections that human rights guarantee**. It’s unlikely that human rights laws will ever be (or even should be) so precise that they dictate exactly what policy is required to guarantee people’s rights in a particular context. But the obligations they impose can counter the power asymmetries that “de-democratize” policymaking processes.

We heard a number of examples of why this matters in the context of economic policy making. In some countries, there’s a “deliberate move to not be transparent and not have public participation” in the budget process. In others, “elites hold knowledge about the economy” that the broader population doesn’t, and “they hide behind jargon” so people can’t participate.

Another major challenge is **skepticism about rights**. Several participants flagged doubts about their political “heft” and ability to persuade economic policymakers to do things differently. One reason for that was their “neocolonial baggage” in international forums. For decades, human rights (narrowly defined) have been co-opted to promote a neoliberal development model, imposed through conditionalities on aid and financing. To counter skepticism, it’s important “to be conscious of that backdrop” and “refresh our understanding of human rights as a progressive force” that goes beyond civil and political rights.

In practice, this demands a much greater focus on the obligations governments have to people beyond their borders (known as “extraterritorial” obligations). This includes an obligation to cooperate internationally and, arguably, to redistribute resources from rich countries to poorer ones. **There’s still a lot of pushback against these obligations and their precise scope remains underdeveloped**. Part of “refreshing” our understanding of rights is to recognize the political context in which legal norms were developed more explicitly and to call out the fact that “it’s no coincidence” norms with the greatest potential for the redistribution of resources in the global economy are also the least developed.

In the first call, the group discussed the how these issues play out in the context of global vaccine inequity. The issue was **seen as a “golden opportunity” to push the concept of extraterritorial obligations**. This framing moves the conversation away from a charity framing to a justice framing; it makes it a political, not a technological issue; and it directly confronts the privileging of profits over people (i.e., the decision to protect intellectual property rights instead of human rights).

Deepening understanding of the role of rights in specific policy debates

Shifting the discussion to tactics, we focused on **what we can learn from (successful or unsuccessful) efforts to leverage human rights to influence specific policy debates**. To give a practical focus to the conversation, we split into smaller groups, each focusing on a specific policy area: tax reform, public services, debt relief, green recovery, and vaccine access. The aim of the conversation was to map out where connections to human rights are being made; where there are still gaps; and how, concretely, we might boost each other’s efforts to address them.

Tax Reform

- Several international and regional human rights oversight bodies have made the link between regressive tax policies and human rights—including on people’s rights overseas. But the challenge is how feed their (usually quite broad) recommendations into policy debates in a meaningful way.
- The obligation to dedicate “maximum available resources” to rights is difficult to leverage to promote progressive taxation or highlight the redistributive effects of indirect taxes. It could be more actionable if it was interpreted through more of an economic perspective.
- There are also other human rights norms that we could leverage more as well, e.g.
 - In Palestine, the “right to development” is used as the framework to tackle the issue of tax justice.
 - National action plans on business and human rights could and should include fiscal issues more directly.
 - A “lot more work can be done” in -strengthening extraterritorial obligations, not just related to tax, but different financial channels weakening the fiscal capacity of other countries.
- To assess government conduct against these norms, we need to get more granular in our analysis of the movement of revenue from public to private through different economic channels (e.g., conducting spillover assessments to evaluate the effect of a country’s tax or financial secrecy policies on profit shifting from other countries).

- On this issue, the moral argument appears to be less persuasive than self-interest arguments (i.e., if we don’t vaccinate everyone around the world, we’ll never get the pandemic under control).
- There’s a clear conflict of interest between wealthy countries and others (e.g., on protecting intellectual property rights, access to technology, and shifting production).
- Shareholder activism could make a difference on corporate behavior in vaccine equity context (pressure from shareholders has led companies to disinvest in Apartheid, in fossil fuels etc.). Specifically, shareholders could get companies to take different approach by visibilizing the human rights risks of the current intellectual property regime, mandating human rights risk assessments etc.

Vaccine Access

Public Services

- Human rights have been leveraged in debates about austerity, privatization, and the care economy; as a framework to analyze the impact of privatization on women's lives; and as the basis of evidence-based advocacy.
- But extent we can attribute success to the claiming of rights not always clear and getting beyond "topline rhetoric" to "nuts and bolts commitments" is a challenge.
- This has helped to "disrupt the momentum of measuring everything from an economic perspective" and let to some success (e.g., recognizing importance of unpaid care and an IFC freeze on funding to for-profit private schools).

- Connections are being made between austerity and human rights and, increasingly, how debt is being used as an excuse to introduce austerity.
- The obligation not to introduce "retrogressive" measures key here because it sets out strict criteria the must be met for austerity measures to be justified—including that all other measures must be considered.
- Austerity is always Plan A, B, and C (even if sometimes government try to disguise policy changes as restructuring). Other options generally aren't given proper consideration. Leveraging this obligation more widely could be powerful. But it's not very well known.
- Interdisciplinary work has made a huge difference on this issue. Another criterion is that fiscal consolidation has a "legitimate" policy objective. Economic analysis can help determine whether that's the case.
- Beyond the context of austerity, the obligations governments have related to loan decisions (whether as borrowers or lenders) are less specific. There's work to do to flesh these out in more detail (e.g., to consider human rights in debt sustainability analysis).
- The cyclical nature of debt is tricky to navigate. Governments say, "we can't afford to meet our human rights obligations without more loans" and, at the same time, "if we want to pay back our debts, we can't to afford to meet our human rights obligations".

Debt Relief

Green Recovery

- There are a lot of connections being made between human rights and climate change and environmental law—e.g., human rights oversight bodies have recognized the right to a healthy environment and cited obligations to support just transition, renewable energy. There's no debate on this anymore.
- But we're seeing both progress and challenges in linking rights to definitions of "sustainable development". There's good case law from regional bodies (particularly under the African Charter on Human and People's Rights) that show that sustainable development is a balance between the economy and economic and social interests. Drawing on the "right to development" framework could help bridge economics with environment and human rights issues further.
- How to bring human rights demands to other mechanisms focused on the environment (beyond human rights mechanisms) is a key question.

The examples shared on these issues reiterated some **striking themes in common**. Emphasizing the impact on people is a strength of rights-based analysis, which can counter the tendency to view everything in narrow economic terms. Across a range of issues, human rights obligations have mainly been leveraged through formal accountability mechanisms (such as international and regional human rights oversight bodies). But this focus on formal accountability mechanisms has hindered more widespread understanding and use of these obligations. In turn, this has limited their influence in policy debates. To do this better, we need to reframe the terms of the debate about what “sustainable development” means. Finding ways of incorporating rights into policy analysis is also key. This means collaborating across disciplines so we can get more “granular” in our assessments.

WHAT NEXT?

In terms of follow up on the topic, we’re exploring ways our own work and our collaborations can take forward suggestions raised during the calls, including to:

- Articulate a progressive vision of human rights that is sensitive to their political history and acknowledges the “baggage” it has led to.
- Center rights in how we frame “sustainable development”.
- Promote more widespread understanding and use of human rights obligations.
- Collaborate across disciplines to conduct more “granular” rights-based policy analysis.

We’d love to hear from others that share an interest thinking through how to take forward these suggestions so we can explore how we might build synergies among and share learnings from our respective efforts.

In terms of follow up on the calls, the feedback we received again highlighted their value in fostering peer-to-peer learning and allowing much-needed space to step away from the “day to day” and think about “the bigger picture”. Participants appreciated the “food for thought” and the “jolt” to their own thought patterns the calls provided; meeting new people from different parts of the world; hearing their experiences, insights, and ideas on a common theme; and making connections they might not otherwise have made.

The “creative” methodology for the calls was seen as a key factor for this; it balanced formal and informal interactions and kept everyone engaged through “provocative questions” asked through different formats. That said, we heard some concrete suggestions for refining the methodology further, which we’ll take into account when we plan our next calls.

We’re so grateful, again, to everyone who shared their wisdom so generously. Our next calls are planned for December. In these, we’ll continue to share intelligence about advocacy targets; brainstorm ways to coordinate and combine “insider” and “outsider” tactics to influence them; and bridge gaps between online and offline activism. **Please stay tuned!**