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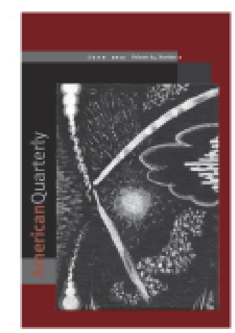

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The human costs of the recent global economic crisis, the true extent of which first became evident in 2008, have been enormous. In the United States alone, the financial meltdown sent shock waves throughout the economy, causing record levels of sustained joblessness, home foreclosures, cutbacks to government services, and rising levels of poverty. The toll has also been substantial at the international level, and the austerity budgets adopted by many countries indicate that the repercussions of the crisis will be with us for decades. Although it is widely recognized that the behavior of global financial institutions led to the crisis, the narratives in the wake of the meltdown have assigned responsibility to the reckless behavior of borrowers—including those holding subprime mortgages and governments in peripheral countries. Financial firms enjoyed sizable bailouts, while others were left to shoulder the burden of adjustment.

This essay explores the role of credit markets in the financial crisis. Both financial fragility, which made the crisis possible, and the trajectory of policy responses postcrisis have been shaped by power dynamics in credit markets that interact with existing structures of stratification along the lines of race, gender, nationality, and other group differences. These dynamics are not unique to the 2008 global economic catastrophe and have been evident in other episodes of debt-fueled economic distress. Despite the centrality of credit markets in a range of financial crises and their contribution to perpetuating structural inequalities, controls on financial institutions have been loosened in recent years rather than tightened, suggesting that the concentration of power in these markets has grown.

Indeed, the influence of financial institutions and interests has expanded significantly in the decades since the 1980s, a time of far-reaching changes to the regulatory environment that has altered the landscape of global economic governance. Existing national and global institutions have failed to redress the unequal balance of power in credit markets and the distributive consequences of financial crises. This raises important questions of which frameworks are appropriate for developing an alternative approach to governing financial and credit markets. We suggest that ongoing developments with regard to economic and social rights have the potential to provide the basis for an alternative approach, with significant implications for the regulation and governance of financial institutions.

We begin by considering the power dynamics embodied in debt relationships, the reasons for the propensity of credit markets to create conditions of economic fragility, and how financial markets interact and reinforce existing patterns of social stratification. With this theoretical background, we then examine concrete examples of the relationships between credit markets and economic crisis, beginning with the racialized lending in the subprime mortgage markets. We demonstrate the parallels between the subprime market and the dynamics of credit markets in other situations: the European sovereign debt crisis, the Latin American debt crisis, and capital flight out of sub-Saharan African countries. The essay concludes with a consideration of how the framework of economic and social rights can provide an alternative approach to macroeconomic governance.

Debt, Power, and Economic Stratification

Over the past four decades, countries around the world have experienced a process of financialization—the growing dominance of finance in the economy and in people's lives. There are various approaches to conceptualizing financialization. Some define financialization as a specific regime of capitalist accumulation in which financial activities play a central role.[1] The role of financialization in the accumulation process is frequently contradictory. Certain aspects of financialization support capitalist accumulation associated with productive activities involving capital and labor, while others undermine traditional forms of production and accumulation, focusing instead on purely financial transactions. One measurement of the extent to which financialization dominates the accumulation process is the extent to which profits are generated through financial activities rather than trade and production.[2]

Other scholars take a slightly different approach and analyze financialization with a primary focus on the shifts in the objectives of capital itself, involving new forms of corporate governance. They identify a movement away from long-run profitability supported by productive activities and toward the maximization of shareholder value through financial manipulations.[3] Maximizing shareholder value involves strategies unconnected to capitalist production, such as a corporation buying back its own stock to increase its scarcity value and raise share prices.

Financialization has also been seen as a broader phenomenon that has transformed the economic situation of households in addition to the strategies of capital. This is particularly evident in the case of the U.S. economy. One observation commonly made is that the debt burden of U.S. households has grown significantly during the period of financialization. This is certainly true, but the influence of financialization runs much deeper than debt. Over the past several decades, household net worth—the wealth of households less what they owe—has increased faster than income for the broad middle of the income distribution in the United States.[4] Rising asset values in homes and pension funds help explain these trends. Those at the bottom of the income distribution did not experience similar improvements in net worth. Those at the top enjoyed the largest increases in both income and wealth. Nevertheless, over this period, the economic interests of the "middle class" have become more closely tied to asset markets than incomes, mirroring the same shift in priorities observed in corporate America during financialization. Robert Reich notes that these changes have transformed a broad swath of the U.S. population from "citizens," potentially concerned with the social problems generated by a capitalist economy, into "investors" who see their economic interests tied to asset prices and shareholder value.[5]

For the purposes of this essay, we follow Gerald Epstein in adopting a broad interpretation of financialization,[6] defining it in terms of the increasing dominance of financial motives, financial institutions (including financial markets), and financial interests. Critically, financialization has been associated with far-reaching changes to the regulatory environment that has limited the scope for government intervention in financial markets. Therefore institutions, both nationally and globally, are weak and currently do not meaningfully mitigate the unequal balance of power between financial institutions, the state, nongovernment institutions, and the nonfinancial segments of the economy. Financial institutions exert a strong influence over economic governance and the direction of policy during economic crises. This raises important questions of what can be done to change how finance is regulated to avoid the serious negative consequences of debt-driven crises. We return to this question in the conclusion when we consider economic and social rights as an alternative framework for economic governance.

Profits earned from financial activities are referred to as rents—income secured by controlling scarce resources. Unlike other scarce resources that earn rents, such as natural resources, modern financial assets are not backed by a physical commodity, and as a result their scarcity is socially constructed—based on monetary policy decisions, the structure of financial institutions, and the regulatory environment. Rentiers, those who control scarce financial resources, are able to stake a claim on the income produced in the rest of the economy. The dominance of rentier interests is a central feature of financialized economies.

Credit markets lay at the heart of the various crises that we explore in this essay. Credit markets represent a particularly critical subset of financial activities in which lenders provide borrowers with access to current funds in exchange for a claim on future streams of income or revenues. The power relationship in credit markets is derived from these claims on future income combined with the ability of those on the short-side of the credit market to sanction the other party in exchanges.[7] In credit markets, lenders represent the short-side of the market, since they control access to scarce financial resources in a context in which demand for loans frequently exceeds supply. The threat of withholding access to credit, and the ability to demand repayment on specified terms, serves as an effective sanction and gives lenders power over borrowers. Debt becomes a disciplinary device that can be used to control individual behavior, shape government policy, reinforce global dependencies, and restructure economies (see Tayyab Mahmud, this issue).

These power relationships exist even when both lenders and borrowers have freely chosen to enter into an agreement.[8] The fact that borrowers are perceived to have voluntarily entered into credit agreements is often used to argue that they are responsible for any negative consequences arising from the loan. After all, they could have chosen not to have taken out the loan in the first place. However, this line of reasoning ignores the creditor's role and the existence of unequal power dynamics, even when borrowers freely choose to take on debt. Moreover, the choice to enter into a credit agreement may not be freely chosen if, for example, the refusal to borrow would be associated with more dire consequences (i.e., the effective bankruptcy of a country). If we consider the case of the subprime mortgage crisis, the meaning of "free choice" becomes questionable when loans were made in the context of incomplete information and, in many cases, outright fraud.[9]

It is not always profitable for creditors to withhold credit as a way of exercising power and the availability of credit ebbs and flows. Lenders, in an effort to boost profitability, create new markets, often extending loans to economically marginalized borrowers or groups previously excluded from credit markets, although on less favorable terms. The search for greater profits can result in a shift from economic exclusion to unfavorable inclusion (see Elvin Wyly et al., this issue). The expansion of credit and the creation of new markets are mutually reinforcing processes, as has been theorized by post-Keynesian economists such as Hyman Minsky.[10] Post-Keynesian theories of financial instability provide important insights into the financial causes of crises in capitalist economies, particularly those undergoing financialization. The expansion of credit during good times helps keep the economy humming, leading to strong profits, higher levels of spending, and rising asset values—all of which encourage the extension of still more credit. However, these dynamics lead to a buildup of debt, which eventually produces conditions of economic fragility.

Fragility arises from the growing claims of creditors in terms of interest and loan repayments relative to the income available to borrowers. In a highly indebted, fragile economy, a shock to incomes and revenue streams can quickly precipitate a crisis.[11] Borrowers who are no longer able to meet their obligations default on their loans. Moreover, when a crisis occurs, credit dries up and creates a situation in which lenders are able to exercise a significant degree of power over borrowers. Financial institutions are able to protect their interests by this exercise of power, thereby shifting the burden of adjusting to a crisis onto less powerful groups in ways that reinforce existing social stratifications. In this process, the responsibility for the crisis is assigned to the borrowers—often portrayed as reckless, profligate, naive, or irresponsible.

Neoclassical economists and economic policymakers primarily see credit and financial markets as aspects of the economy that operate at the aggregate, or macroeconomic, level and therefore have little to do with distributive outcomes. In reality, these markets interact with institutions and structures that embody distributive dynamics and power inequalities along the lines of race, gender, class, nation, in addition to other forms of stratification. Changes at the macroeconomic level—such as a credit boom or a financial crisis—produce outcomes that reflect existing social stratifications. Feminist economists have put a great deal of effort in demonstrating that policies considered "gender blind" are not always "gender neutral," since women occupy distinct positions in the economy relative to men.[12] For similar reasons, macroeconomic dynamics play out in ways that reinforce racial inequalities. Economic shocks frequently have long-run consequences, which suggests that, when the costs of adjusting to changes in the macroeconomic environment are unevenly distributed, economic crises contribute to the persistence of patterns of stratification.[13]

For instance, as Elvin Wyly et al. (this issue) argue, the aggregate expansion of credit and liquidity in the U.S. economy during financialization has produced distinct racialized outcomes because of various structural factors: the segregated spatial organization of cities, the dysfunctional regulatory system, and discriminatory lending practices. Similarly, an empirical study by Stephanie Seguino and James Heintz found that policy decisions taken by the U.S. Federal Reserve to raise interest rates have a disproportionately negative effect on the unemployment rate of blacks relative to that of white males and on the unemployment rate of women relative to white males.[14] Moreover, these racial and gender distinctions in the response to macroeconomic policies vary from state to state, with the relative importance of the race effect and the gender effect sensitive to the racial composition of each state's population. This suggests that variations in the nature of social stratification shape the distributive consequences of macroeconomic policy.

Collective action among dominant groups secures their material advantages and facilitates the reproduction of social stratification over time.[15] The construction of identities of "whiteness," masculinity, and nationality facilitate such collective action. Scholars have theorized that the emergence and persistence of race and gender identities are sensitive to the economic benefits of maintaining those identities.[16] During an economic downturn, when jobs become scarce and household resources come under pressure, the relative benefits of maintaining identities associated with dominant, privileged groups may increase, leading to more pronounced racist, masculinist, and/or nationalist practices. At the same time, narratives of individual choice and responsibility often erase the role of collective action and the importance of constructed identities. These discourses provide alternative explanations of the existence of intergroup disparities, locating the reasons for persistent inequalities in personal failings, a lack of individual responsibility, insufficient human capital, genetics, or behaviors linked to cultural differences.[17]

Similar dynamics are evident at the global level. Powerful nations secure their material advantages in the global economy in ways that replicate international inequalities and construct national collective identities that reward those able to adopt these identities (i.e., citizens) with concrete benefits, while excluding others. Outside the countries that dominate the global economy, economic crises are often explained by an inability of governments to manage their economies effectively and such characterizations are often racialized. For example, Laura Hyun Yi Kang (this issue) analyzes the discourses that emerged after the 1997–98 "Asian crisis," showing how the causes of the crisis, although global in scope and tied to the neoliberal policies of the Washington Consensus, were blamed on Asian "cronyism" and mismanagement.

The global financial architecture exhibits structural inequalities that reinforce the international distribution of income and power. The dollar remains the global reserve currency, giving the United States a sizable advantage in international transactions. When other countries face balance of payments problems—for example, difficulties in paying for imported goods and servicing foreign debt—access to an international currency, primarily the dollar, becomes critical. In the absence of any other source of foreign exchange, countries must borrow, often from the IMF, thereby subjecting themselves to the power dynamics associated with debt. The United States does not face these constraints, having access to an abundant source of dollars.

However, there are limits to even the supply of dollars available to the United States. Someone must be willing to hold dollars, and, most recently, countries such as China and Korea, with large foreign exchange reserves, have taken on this role. This produces a particular balance of power in the global economy between large debtors (e.g., the United States) and large creditors (e.g., China). Stephen S. Cohen and J. Bradford DeLong stress this point regarding the global balance of financial power with the Wall Street quip: "If you owe the bank $1 million, the bank has you; if you owe $1 billion, you have the bank."[18] For those outside this select circle of financial goliaths, the existing structure of global financial markets can impose significant constraints on what can and cannot be done.

In summary, we have argued that the operation of credit markets—with their power dynamics discussed above—interact with existing stratifications and thereby produce distinct distributive outcomes that reinforce the economic positions of financial interests while shifting the cost of adjustment onto economically subordinate populations. To see how these dynamics have played out in detail and to provide some empirical support to these theoretical arguments, we begin with an exploration of the recent subprime mortgage and the sovereign debt crises.

Debt and Crisis: Subprime Mortgages and the European Sovereign Debt Crisis

The full extent of the recent global financial crisis first became clear in the second half of 2008, and, at the time of writing, the full ramifications of the crisis remain unclear. Although it is common to speak of "the global crisis," in reality the financial crisis has been composed of several subsidiary, interrelated crises. Here we look at two of these component crises that have been shaped by dynamics within credit markets: the U.S. subprime mortgage crisis and the European sovereign debt crisis. What we discover when making this comparison is that there are striking parallels in the relationships among credit markets, crisis, and the consequences of crisis in these two cases.

Over the past three decades, credit has been made readily available in the U.S. economy, through mortgage loans to buy property, credit cards to buy consumer goods and services, and other forms of credit, such as home equity loans, to finance a range of expenditures. Availability of credit and household indebtedness have increased significantly since the early 1980s. According to the Flow of Funds accounts released by the Federal Reserve Board of Governors, household debt averaged 65 percent of personal disposable income from 1960 to 1979.[19] Since the 1980s, household indebtedness began to increase and grew to 132 percent of disposable income in 2007—the year before the unfolding of the recent global crisis, which drew attention to how serious the financial crisis had become.

Despite this expansion in the availability of credit at the aggregate level over recent decades, access to credit had been circumscribed by race and gender. Specifically, discriminatory lending practices marginalized racialized groups in credit and housing markets.[20] With the expansion of subprime mortgages, that is, mortgages that required lower up-front cash and lower incomes than standard mortgages, these patterns of exclusion from credit markets began to shift. Credit was extended to previously excluded populations, although on unfavorable terms. Women and people of color were targeted by providers of subprime mortgages. This allowed marginalized groups access to housing markets, although at the cost of higher interest and fee payments than for standard mortgages. An ongoing expansion of credit requires the generation of new markets for loans, and subprime lending to the previously excluded represented a profitable new market opportunity.

Two studies for the Consumer Federation of America examined the race and gender dimensions of subprime mortgage lending.[21] The studies found that about 24 percent of male borrowers received subprime mortgages compared with about 32 percent of female borrowers. They also found discrimination between different racial and ethnic groups: about 20 percent of white borrowers and 13.5 percent of Asian borrowers received subprime loans in 2005, compared with almost 40 percent of Latino borrowers and over 50 percent of African American borrowers. African American women were 5.7 percent more likely to receive a subprime mortgage than African American men, and 256 percent more likely to receive one than white men. The costs of a subprime mortgage relative to a standard mortgage were substantial. Subprime borrowers were estimated to pay between $85,000 and $186,000 more in interest than average borrowers over the period of a typical mortgage.

Through the growth of credit, people in the United States appeared to be experiencing an expansion in access to economic goods and services. Average hourly wages, adjusted for inflation, had been stagnant in the United States for decades. According to data from the U.S. Bureau of Labor Statistics, the hourly wage of production, nonsupervisory workers, measured in 2007 dollars, was $18.08/hour in 1970 and $17.81/hour in 2007—the year before the major effects of the financial crisis became known.[22] Household incomes increased, even taking into account inflation, but this was due to longer hours work by all household members, explained in large part by women's increased labor force participation. Income inequality between households grew significantly during this period, but growth of consumer demand of low-income households was sustained by a rapid growth in household indebtedness, which helped lay the foundation for the economic crisis.[23]

Debts have to be repaid at some point, but the rising prices of houses led many to feel secure, because rising prices made individuals wealthier, given prevailing asset values. These wealth effects help explain expansions in the general demand for credit. Higher asset prices meant that households found their wealth was increasing without having to save, allowing for more borrowing without diminishing their net worth—the total value of assets owned less what is owed.

The subprime mortgage crisis—and the broader financial crisis—was triggered by an abrupt change in this economic environment interacting with the fragile situation created by large amounts of debt. The U.S. Federal Reserve provided an impetus for the collapse of the housing bubble by dramatically raising its key interest rate, the Federal Funds rate, from a low of 1.1 per cent in 2003 to 5 percent by 2006. Interest rates had been lowered during the 2001 recession and were later raised due to concerns over modest increases in inflation. The subprime mortgages were not fixed-rate mortgages. Instead, monthly payments were tied to market interest rates. When the Federal Reserve raised its interest rate by a multiple of over four times the low rates that prevailed during the height of the boom, monthly payments on subprime loans quickly became unaffordable. Defaults became commonplace, and the housing market collapsed.

The collapse of the housing market created ripple effects throughout the global financial sector. Financial institutions had been investing in various financial instruments whose ultimate value was linked to the mortgage markets. Mortgages were bundled in a process called "securitization" and then repackaged to produce new, innovative financial products.[24] The complexities of these products prevented any accurate assessment of risk. However, they did create an environment of economic fragility that was much more substantial than that associated with the subprime mortgage market alone. Nevertheless, the financial crisis had its roots in the racialized lending associated with subprime mortgages.

The previously marginalized borrowers who were disproportionately represented in the subprime mortgage markets also suffered disproportionately from the negative fallout from the collapse of the housing market. According to a report from the Center for Responsible Lending, approximately one-quarter of African American and Latino borrowers who took out loans from 2004 to 2008 lost their homes to foreclosure or were seriously delinquent by February 2011, compared with just under 12 percent of white borrowers.[25]

In contrast, financial institutions were bailed out, in part through the federal budget and the Trouble Asset Relief Program (TARP), and much more significantly through the actions of the Federal Reserve, which bought up questionable assets linked to the subprime mortgage market.[26] While the original federal rescue package (TARP) was meant to include provisions for preserving home ownership and providing mortgage debt relief, in reality the funds were only distributed to help financial institutions.[27] The bailouts were justified on the grounds that failures of large financial institutions posed a serious threat to the U.S. economy. The implication was that mortgage defaults by African Americans, Latinos, and women in low-income households represented an isolated risk with few implications for those not directly involved.

Stepping back from the details of the rise and fall of the subprime mortgage market, we find that the policy response appears to have treated the large financial players as if they were "blameless victims"—deserving of government intervention and not held responsible for decisions made. In contrast, subprime borrowers received far less support—consistent with the perspective that they were responsible for the defaults and foreclosures, having made unwise, unsustainable, and risky choices. The contrast in the image of the systemically important investment banker (white, mostly male, privileged, shrewd) and the "typical" subprime mortgage borrower (nonwhite, poor, female, and reckless) is mirrored in the policy response.[28] The role of credit in the crisis is fundamental as is the ways in which power is distributed through credit markets. In the midst of the crisis, both subprime borrowers and major investment banks were holding large amounts of debts and assets with questionable value, but the relative vulnerability of the two groups was dramatically different.

We see similar dynamics for debt, power, and marginalization playing out internationally with the sovereign debt crisis in Europe. The European sovereign debt crisis was a result of the inability of smaller eurozone countries to continue to finance their public debt—specifically, Greece, Ireland, and Portugal.[29] The sovereign debt crisis shares many similar features to the subprime mortgage crisis. The global financial meltdown that began in U.S. financial markets triggered the sovereign debt crisis in Europe. Just as higher lending rates led to default in the U.S. subprime mortgage market, rising debt-servicing costs created a situation in which public debt in the European crisis countries was no longer sustainable.[30] In the wake of the global financial crisis, credit ratings agencies downgraded their risk assessments for the sovereign debt in the affected countries, contributing to higher costs of borrowing. In some cases, notably Ireland, the origins of the crisis were primarily in the banking sector and the government's assumption of private debts when the financial crisis hit.[31] In Greece and Portugal the causes of the crisis were primarily fiscal—that is, high levels of debt that had built up before the crisis were not sustainable after the crisis unfolded because of rising costs.

The sovereign debt crisis introduced systemic risks to the European Union and the eurozone economies. In other words, the costs of the crisis spread well beyond the countries initially affected. The European financial sector held large amounts of this sovereign debt, and the sector's stability was directly threatened by the possibility of default. For these reasons, rescue packages were organized to stabilize the situation.[32] The rescue packages included emergency loans and agreements to restructure the debts to make the debt-servicing payments affordable. Unlike the U.S. situation, in which the Federal Reserve orchestrated bailouts of the financial sector, the European Central Bank (ECB) limited its role in addressing the sovereign debt crisis. The ECB could have played "lender of last resort" by buying significant amounts of sovereign debt, just as the Federal Reserve bought mortgage-backed securities.[33] However, the ECB has not followed this course, arguing that such actions violate a principle not to finance government borrowing. Instead, the ECB has primarily focused on providing emergency loans to banks and financial interests in Europe.

The rescue packages included conditionalities requiring large cuts to government spending. The cost of adjusting to the financial crisis is therefore being borne by the populations of the countries introducing austerity programs. There is a parallel to the subprime mortgage crisis. In both cases, the bailouts focused primarily on stabilizing the financial sector while the burden of adjusting to consequences of the crisis fell on populations whose supposedly reckless actions, or those of their governments, were primarily responsible for the harsh fallout from the crisis. In the case of the sovereign debt crisis, the eurozone has been characterized by two distinct parts, a "core" (including Germany, France, and the United Kingdom) whose stability is being threatened by the "periphery" (i.e., Greece, Portugal, and Ireland).

Blaming the "other Europe" for the sovereign debt crisis provides a justification for the harsh conditionalities attached to the rescue programs. In a relatively short time period, the focus has shifted from the root cause of the financial crisis—tied to the behavior of global financial institutions—to the supposed profligacy of a few small countries. The shift has occurred despite the fact that a portion of the increase in debt was linked to the bailouts of the financial sector itself. In some cases (e.g., Greece) much of the buildup of the debt happened before 2008. However, even here the charge of fiscal recklessness needs to be unpacked. Creditors were willing to lend to countries like Greece prior to the crisis and did not deem such lending to involve excessive risks. Like the subprime mortgage market, sovereign debt represented a profitable market in a global economy awash with available credit. This is not to say that the government of Greece was a passive player as the public debt increased. Rather, the point is that credit markets involve *both* borrowers and lenders and are structured by distinct power dynamics that create asymmetries in the response to economic crises.

Latin America's Debt Crisis and Capital Flight from Africa

Subprime mortgages and sovereign debt are both closely tied to the 2008 global financial crisis. However, the economic and power dynamics associated with credit markets and debt have been evident elsewhere. In many respects, the subprime mortgage and sovereign debt crises are typical, rather than exceptional, with regard to how these scenarios play out. To see this, it is worth taking a look at some additional examples not tied to this recent financial crisis: the Latin American debt crisis of the 1980s and capital flight from sub-Saharan Africa.

The parallels between the Latin American debt crisis, leading to the region's so-called lost decade in the 1980s, and the sovereign debt crisis are remarkable. The oil shocks of the 1970s had significant negative consequences for the global economy and for many countries in Latin America. At the same time, credit was readily available—that is, there was excess liquidity in global markets, meaning that there was an abundant supply of credit looking for markets.[34] Borrowing by Latin American governments increased significantly in the 1970s and the very early 1980s. However, changes in global credit markets, partly because of dramatic shifts in monetary policies in countries like the United States, meant that easy credit was no longer available beginning in the early 1980s. Just as in the European sovereign debt crisis, many Latin American countries found that they could no longer finance their public debts. High global interest rates added to this problem. Many large Latin American countries, including Brazil, Argentina, and Mexico, faced a sovereign debt crisis of their own.

The Latin American debt crisis raised the specter of contagion and serious systemic risks for global markets and financial interests outside the region.[35] For these reasons, stabilization packages were initiated by the International Monetary Fund (IMF) and the United States in an attempt to rescue Latin American financial institutions. For instance, the U.S. Brady Plan involved the issuance of bonds, backed by guarantees, that would replace bank loans made to Latin American countries and thereby relieve some of the pressures created by the large debts.[36] Loans from the IMF were subject to conditionalities that involved spending cuts, significant devaluation of currencies, and limits on wages in an attempt to control inflation.[37] As with the European sovereign debt crisis, the burden of adjustment primarily fell on the borrowers. Moreover, the Latin American debt crisis represented a watershed in the history of the IMF, in the sense that it gave the IMF significant power over the governance of economies in Latin America.

As with the subprime mortgage crisis and the European sovereign debt crisis, the mainstream narrative that emerged out of the Latin American debt crisis was one of overborrowing, policy mistakes, and macroeconomic mismanagement on the part of the Latin American countries.[38] The question of overlending and financial institutions' responsibility for the crisis were not reflected in the policy response. Once again, in this narrative, the banks effectively became the victims of the irresponsible behavior of reckless borrowers. The negative consequences of the debt crisis and the policy conditionalities were substantial—declining per capita incomes, high rates of unemployment, falling wages, and a collapse of investment.[39]

The second example of these kinds of credit market dynamics is that of debt-financed capital flight from sub-Saharan Africa. Léonce Ndikumana and James Boyce have documented the extent of capital flight and its relationship to debt in a large number of sub-Saharan African countries.[40] In their work, capital flight is defined as unrecorded financial flows out of a country—that is, flows not related to trade, foreign investment, interest payments, or external borrowing. Political and economic elites in many African countries have moved large amounts of money out of their countries, converting this money into personal assets, such as bank accounts or other investments. These outflows of finance are unrecorded—and therefore constitute a sizable share of what Ndikumana and Boyce refer to as capital flight. They show that many sub-Saharan African countries are net creditors to the rest of the world. In other words, taking capital flight into account, financial flows out of African countries to the rest of the world have exceeded inflows.

Ndikumana and Boyce find a relationship between external borrowing and capital flight in many sub-Saharan African countries. This suggests that borrowing facilitates capital flight, and the resources that enter a country in the form of loans can leave the country in the form of capital flight. Political and economic elites become richer, while debt burdens grow. This debt must be serviced, placing pressures on government expenditures and generating real human costs in terms of lack of basic medical care, curtailed access to education, and lower levels of public services.[41]

Like the other examples of debt and credit markets, the debt burden of African countries is often said to be the result of macroeconomic mismanagement and excessive borrowing. In some respects this is true. Given the existence of capital flight and considering the ultimate destination of the funds, borrowing could certainly be said to have been excessive. The African political and economic elites who benefited from capital flight are portrayed as corrupt, enriching themselves at the expense of the rest of the population. These narratives are based on the actual experiences of many countries.[42] However, what is often missing from the story is the role of the international banks and financial institutions, usually based in the global North, whose cooperation was essential in order for capital flight to take place. These financial institutions facilitate capital flight because it is profitable to do so. In addition, they protect the assets and the identities of the elites in African countries who are responsible for capital flight. Yet the role of these institutions is often ignored and the responsibility for the debt burden racialized—that is, portrayed only in terms of corrupt and uncivilized behavior that is assumed to be characteristic of underdevelopment in Africa.

As the debt of sub-Saharan African countries became unsustainable, they were often subject to similar rescue packages with similar conditionalities to those imposed on Latin America and the European countries affected by the sovereign debt crisis. The debt situation in these sub-Saharan African countries was deemed dire enough to create a new label for them: "heavily indebted poor countries," or HIPCs. Again—the burden of adjustment fell on the borrowers. In the case of capital flight from the sub-Saharan African countries, the requirement that the borrowing country bear the primary burden is particularly unjust—the consequences of debt are borne by the general population, while collaboration between political elites and overseas financial institutions yielded large benefits for those directly involved in moving money out of the countries.

Economic and Social Rights: An Alternative Approach for Governing Credit Markets

The contribution of credit markets to these economic crises raises serious concerns over how these markets are currently governed. Finance does not operate in a vacuum, independent of the rest of society and the economy. The financial crises and related phenomena highlighted here come at a high cost, the costs are unequally distributed, and they are intricately linked to how credit markets operate. In this concluding section, we look at specific principles from one framework that could be used to justify an alternative approach to regulating finance: that of economic and social rights. There has been relatively little dialogue between those working within the framework of economic and social rights and those analyzing various aspects of macroeconomic governance.[43] Our aim is to show how certain concepts coming from the human rights framework with the specific attention to economic and social rights have potentially far-reaching implications for the way in which credit markets operate.

Human rights-based approaches to social justice have been subject to numerous critiques, and the potential limitations of the framework should be kept in mind.[44] Some have argued that the current construction of human rights is culturally biased, is therefore not universal in nature, and should not be used to assess social justice.[45] In the mainstream discourse on human rights, economic and social rights are often pushed aside in favor of civil and political rights, with a specific emphasis on individual liberty. In some cases, interpretations of civil rights directly undermine the realization of economic and social rights. For instance, the decision of the U.S. Supreme Court with regard to *Citizens United v. the Federal Election Commission*, which eliminated restrictions on corporate donations to electoral campaigns, represents the latest in a series of U.S. judicial decisions in which justification for protecting a civil right ("free speech") leads to outcomes that could undermine economic and social rights. Similarly, the discourse of human rights may be co-opted and used to reinforce the exercise of power at a global level, such as military interventions justified on the basis of the need to protect rights.[46] The economic and social rights framework also has a particular institutional focus. It sees the state as the primary duty bearer, potentially disregarding the role of other institutions, community-based traditions, or diverse forms of collective action.

These limitations should be kept in mind. However, we have specific reasons for choosing to look at elements of the economic and social rights framework in the wake of the 2008 global financial crisis. First, as mentioned above, some of the principles have potentially important implications for governance of financial institutions and markets, yet these possibilities have been underexplored. Second, economic and social rights have a concrete institutional and legal grounding. Global declarations, international treaties, covenants, and, in a number of cases, national constitutions have incorporated aspects of the economic and social rights framework—providing an institutional infrastructure in national and international law. Some have suggested that a consideration of global justice may not be a useful pursuit because of the institutional complexities involved.[47] However, this does not get around that fact that global institutions already have an impact on social justice, both positive and negative. We feel that it is useful to tease out the implications that elements of alternative frameworks have for economic governance, specifically those supported by existing institutions. Economic and social rights represent one such concrete framework. Finally, the framework is an evolving one, and ongoing discussion and deliberation is necessary to address underdeveloped areas and potential deficiencies.

It is useful to compare the elements of economic and social rights framework to other approaches to social justice. Economic and social rights focus on outcomes or realizations as the primary entry point—for example, health, jobs, education, or housing.[48] An alternative approach would be to begin with institutions—for example, if a particular economic system is considered unjust, then an institutionalist approach would define a different set of institutions that, if put into place, would constitute a just economic system. Focusing on realizations in the first instance does not imply that institutions are unimportant to economic and social rights, rather that the identification of appropriate institutions is based on desired outcomes. A second characteristic of the economic and social rights framework is that rights are progressively achieved, allowing for engagement with existing social arrangements, even if all injustices are not addressed at once. This differs from transcendental approaches to social justice, which emphasize the definition and achievement of a perfectly just world.[49] The concept of progressive realization is therefore central to economic and social rights.

The set of economic and social rights considered here were initially set out in the Universal Declaration of Human Rights. Examples of key economic and social rights include the right to food, the right to housing, the right to work, the right to health, and the right to an adequate standard of living, among others. The principles undergirding these specific rights and the obligations of states with respect to economic and social rights have been elaborated in subsequent international agreements.[50] Here we focus on a select group of these obligations and principles. The reason for focusing on these obligations and principles, rather than the specific economic and social rights (e.g., food, housing, work), is that they provide a basis for an alternative approach to financial governance ultimately linked to the realization of basic rights.

In doing so, we argue that the role of economic and social rights should shift from simply providing a safety net or a core set of basic goods and services to changing the rules under which the economy operates. Consider social assistance and social protection programs, such as "employer of last resort schemes," which are meant to provide emergency employment for poor households, and conditional cash transfers, which provide cash grants to families meeting specific criteria.[51] Such interventions frequently assume that broad economic parameters are fixed and implement social programs taking these constraints as given. However, the availability of resources to administer these social programs is determined by macroeconomic dynamics, which are themselves the outcome of deliberate policy choices. Taking this broader context as untouchable does little to address the power dynamics in financial markets, which limit the resources available to fund social assistance programs. In addition, social assistance programs operate through direct government provisioning of jobs, cash payments, or social services. A comprehensive approach to economic and social rights accommodates a wider range of institutions, in which the realization of rights is not limited to state provisioning but also considers the state's role in providing the appropriate legislative, budgetary, and judicial environment conducive to the realization of rights.[52] This introduces larger ideas of economic governance into the discussion of basic economic rights.

The obligations and principles considered here include the following:

- The obligation to protect—requires the state to take steps in order to protect economic and social rights from actions by third parties that interfere with the enjoyment of those rights.
- The principles of progressive realization and nonretrogression—the state must take steps to progressively realize economic and social rights over time and to prevent an erosion of those rights.
- The principle of maximum available resources—requires the state to undertake steps to use the maximum of available resources to progressively realize economic and social rights.[53]
- The principle of nondiscrimination and equality—the state must ensure the equal enjoyment of rights in terms of both its conduct and the outcomes of its policies. Because of the focus on substantive outcomes, "race blind" or "gender blind" policies are not sufficient for compliance with this principle. Nondiscrimination also implies that positive steps must be taken to reduce already existing inequalities.

- The principle of accountability participation and transparency—governments are obliged to provide mechanisms through which people can hold the state accountable, can participate in policymaking, and can access the information required to do so.

Compliance with these obligations and principles imply a very different way of regulating credit markets and responding to financial crises than the dominant approach over the past several decades. For instance, deregulation of financial markets allowed global investors to take decisions that led to the 2008 global financial crisis. The outcome of the crisis in many countries has been a retrogression of economic and social rights, as the consequences of the European sovereign debt crisis illustrate. This represents a failure of the obligation to protect. The lack of any systematic mortgage regulation in the U.S. markets, which allowed predatory lending to flourish, also represents a failure with regard to the obligation to protect and, given the demographics of those caught up in the subprime mortgage crisis, a violation of the principle of nondiscrimination and equality. Similarly, the use of resources by governments and central banks to bail out financial institutions and the subsequent imposition of austerity budgets without demanding greater accountability of the rescued banks and investment firms could be said to violate the principle of maximum available resources as well as the principle of accountability, participation, and transparency.

Moreover, the principle of maximum available resources could be used to justify reform that requires financial institutions to support the progressive realization of economic rights, since the "available resources" include the credit and monetary system. This could be achieved, for example, by requiring banks to provide credit to populations shut out of financial services on favorable terms or by regulating the extension of credit so that a portion of loans support affordable housing, health care facilities, or investments that generate jobs in areas of high unemployment. A recognition of economic and social rights as entitlements that the state must defend, and that extend well beyond property rights which provide the current institutional foundation for market economies, would alter the power dynamics in credit markets. We have argued that the asymmetries of power in credit and financial markets have been responsible for the kind of financial crises we have witnessed and the dramatically uneven consequences of those crises. The economic and social rights framework suggests a fundamentally different approach to financial governance that begins to address these concerns.

Of course, the actual implementation of the principles and obligations associated with economic and social rights is far more difficult. Not all states are party to the various agreements that constitute the existing framework, and even among signatories the enforcement of government obligations is frequently limited. International institutions, like the International Monetary Fund, claim that they cannot be held accountable for economic and social rights because the IMF is not a state and is not bound by the agreements. Since the state is the prime duty bearer in the economic and social rights framework, the global dimensions of financial regulation need much further elaboration. These barriers are not trivial and present real challenges for applying the economic and social rights framework to the question of financial and credit markets.

In particular, there is a tension between the capacity of individual states to take steps to support the realization of economic and social rights and the dynamics of an integrated global economy in which financial interests have significant power. Under these conditions, coordinated action by states, including government agencies like central banks, will be needed to fully support the core principles and obligations discussed here. To give a concrete example: how financial markets in the United States are regulated has implications for realizing economic and social rights elsewhere. If this framework is to move beyond a focus on the nation-state and to recognize the need for action globally, a number of conditions must be met. Countries should not be able to opt out of their obligations with respect to economic and social rights—that is, such rights must truly be universal. Global and international institutions must be accountable to the same set of human rights obligations as individual governments. The obligations that states have with regard to other countries need to be much better defined, explicitly recognizing power differentials in the global economy. Effective mechanisms for coordination across countries must be developed, including the creation of a common set of rules for regulating transnational businesses and financial players.

Clearly, the institutional requirements for a truly global approach to economic and social rights do not currently exist. We are not suggesting that the economic and social rights framework, as it currently stands, is a fully conceptualized approach to global justice backed by a complete set of effective institutions. Instead, we are suggesting that the concept of economic and social rights, including the current principles and obligations associated with this framework, implies a fundamentally different approach to macroeconomic governance, including reform of the role of financial institutions in the economy. There has been very little exploration of these issues, and this is unfortunate. The human rights framework is often dismissed as being too narrowly focused on individual liberties and political freedoms. In practice, this is often true, but it is a result of the marginalization of economic and social rights in the broad human rights discourse. This can result in the rejection of economic and social rights without fully understanding the potential of this approach for advancing social justice. We suggest that this is a mistake and that the constructive development of the economic and social rights approach, and the institutions that back it, would lead to a fundamentally different kind of global economy demanding a transformation of how financial markets and institutions operate.

Conclusion

In many respects, debt and credit markets lie at the core of the agglomeration of financial markets and institutions that have become increasingly influential in recent decades: directly influencing the paths that economies take, determining—to a large extent—the policies adopted, and limiting the scope for advancements in social justice. We have argued that the operation of these markets reflect inherent power relationships that interact with existing patterns of stratification, producing mainstream discourses that hide unequal racial and gender dynamics and reshape policy responses. These features of credit markets are not unique to the 2008 collapse and can be found in numerous other economic debacles that have occurred in this era of global financialization, in which policy decisions have exacerbated, rather than curtailed, the growing power of finance.

We feel that the economic and social rights approach has significant potential to turn this situation around, yet, in considering this alternative, we must recognize that it is still early days. The field of economic and social rights is quite young and, in many ways, underdeveloped. Perhaps the biggest challenge with regard to applying this approach to global finance is the need to flesh out how best to coordinate action among states at the global level in ways that take into account unequal power dynamics and support the realization of basic economic and social rights. Clearly, the institutional infrastructure is not currently in place to make this happen. Nevertheless, steps can be taken to build on what currently exists and to push out the frontiers of economic governance. In the meantime, much can still be done at the national and subnational level. For example, revisiting the U.S. subprime mortgage crisis through the lens of economic and social rights reveals a fundamentally different approach to economic governance when compared with the recent dominance of neoliberal policies. There is a long way to go before these alternatives are realized, and it will not happen overnight. If the aim is to progressively realize a new approach to finance, we suggest that much can be gained through ongoing explorations of the potency, and possible limitations, of the economic and social rights framework.

Notes

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2. Krippner, "Financialization of the American Economy."
3. William Lazonick, "How Shareholder Value Ideology Is Destroying the U.S. Economy," in *The Oxford Handbook on* t*he Political Economy of Financial Crises*, ed. Gerald Epstein and Martin Wolfson (Oxford: Oxford University Press, forthcoming); James Crotty, "The Neoliberal Paradox: The Impact of Destructive Product Market Competition and 'Modern' Financial Markets on Nonfinancial Corporation Performance in the Neoliberal Era," in *Financialization and the World Economy*, ed. Gerald Epstein (Northampton, Mass.: Elgar, 2005), 77–110.
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5. Robert Reich, *Supercapitalism: The Transformation of Business, Democracy, and Everyday Life* (New York: Knopf, 2007).
6. Gerald Epstein, "Introduction: Financialization and the World Economy," in Epstein, *Financialization and the World Economy*, 3–16.
7. Samuel Bowles and Herbert Gintis, "The Revenge of Homo Economicus: Contested Exchange and the Revival of Political Economy," *Journal of Economic Perspectives* 7.1 (1993): 83–102.
8. Ibid.
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10. Hyman Minsky, *Stabilizing an Unstable Economy* (New Haven, Conn.: Yale University Press, 1986).
11. Ibid.
12. Lourdes Benería, "Towards a Greater Integration of Gender in Economics," *World Development* 23.11 (1995): 1839–50; Diane Elson, "Gender Aware Analysis and Development Economics," *Journal of International Development* 5.2 (1993): 237–47; Stephanie Seguino, "The Global Economic Crisis, Its Gender and Ethnic Implications, and Policy Responses," *Gender and Development* 18.2 (2010): 179–99.
13. This can happen when the shocks associated with a crisis period have long-run consequences. For example, episodes of unemployment have been shown to negatively affect future earnings (Wiji Arulampalam, "Is Unemployment Really Scarring? Effects of Unemployment Experiences on Wages," *Economic Journal* 111 [November 2001]: F585–F606). Similarly, transitions into the labor market during bad economic times appear to have long-run effects on career paths (Lisa Kahn, "The Long-Term Labor Consequences of Graduating from College in a Bad Economy," *Labour Economics* 17.2 [2010]: 303–16).
14. Stephanie Seguino and James Heintz, "Contractionary Monetary Policy and the Dynamics of U.S. Race and Gender Stratification," *American Journal of Economics and Sociology* 71.3 (forthcoming).

15. Charles W. Mills, *The Racial Contract* (Ithaca, N.Y.: Cornell University Press, 1999); and William Darity, "Stratification Economics: The Role of Intergroup Inequality," *Journal of Economics and Finance* 29.2 (2005): 144–53. Mills uses the concept of a "racial contract," in contrast to the "social contract" construct of contractarian social theory and ethics, to describe forms of collective action among whites that promote their collective interests and subordinate those who are not white.
16. William Darity, Patrick L. Mason, and J. Stewart, "The Economics of Identity: The Origin and Persistence of Racial Norms," *Journal of Economic Behavior and Organizations* 60.3 (2006): 283–305.
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18. Stephen S. Cohen and J. Bradford DeLong, *The End of Influence: What Happens When Other Countries Have the Money* (New York: Basic Books, 2010), 5.
19. The Flow of Funds Accounts are produced by the U.S. Federal Reserve and contain estimates of financial assets and liabilities for various sectors of the U.S. economy. For more details, see http://www.federalreserve.gov/apps/fof/.
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21. A. J. Fishbein and P. Woodall, *Subprime Locations: Patterns of Geographic Disparity in Subprime Lending* (Washington, D.C.: Consumer Federation of America, 2006); Fishbein and Woodall, *Women Are Prime Targets for Subprime Lending: Women Are Disproportionately Represented in High-Cost Mortgage Market* (Washington, D.C.: Consumer Federation of America, 2006).
22. See www.bls.gov. Hourly wages were inflation-adjusted using the consumer price index for all urban consumers. Estimates of hourly wages came from the Bureau of Labor Statistic's Current Employment Survey program.
23. Robert Reich, *Aftershock: The Next Economy and America's Future* (New York: Vintage, 2011); Branko Milanovic, *Two Views on the Cause of the Global Crisis* (Washington, D.C.: Carnegie Endowment for Peace, 2009), www.carnegieendowment.org/publications/index.cfm?fa=view&id=23053; Seguino, "Global Economic Crisis."
24. Financial products directly linked to mortgages were called "mortgage-backed securities" or "asset-backed securities." The "collateralized debt obligations," or CDOs, represented one form of mortgage-backed security. Other financial products, such as "credit default swaps," effectively acted as insurance policies in the event of a default on debt.
25. Debbie Gruenstein Bocian, Wei Li, Carolina Reid, and Roberto G. Quercia, *Lost Ground 2011: Disparities in Mortgage Lending and Foreclosures* (Durham, N.C.: Center for Responsible Lending, 2011).
26. General Accountability Office, "Troubled Federal Reserve System: Opportunities Exist to Strengthen Policies and Processes for Managing Emergency Assistance," GAO-11-696 (Washington, D.C.: General Accountability Office, July 2011); General Accountability Office, "Troubled Asset Relief Program: Status of Efforts to Address Transparency and Accountability Issues," GAO-09-296 (Washington, D.C.: General Accountability Office, January 2009). According to a story published by Bloomberg Market Magazine on November 27, 2011, based on the analysis of documents obtained through a freedom of information request, the Federal Reserve had committed $7.7 trillion to bail out the financial system by March 2009, http://www.bloomberg.com/news/2011-11-28/secret-fed-loans-undisclosed-to-congress-gave-banks-13-billion-in-income.html.
27. See the op-ed by Neil M. Barofsky, who was the special inspector general for the Troubled Asset Relief Program, "Where the Bailout Went Wrong," *New York Times*, March 29, 2011.
28. In reality, white borrowers accounted for a significantly larger absolute number of foreclosures and delinquencies than African American or Latino borrowers (Bocian et al., "Lost Ground 2011").
29. Spain and Italy are sometimes included in discussions of the sovereign debt crisis.
30. Adrian Blundell-Wignall and Patrick Slovik, "A Market Perspective on the European Sovereign Debt and Banking Crisis," *Financial Market Trends*, February 2011, 1–28.
31. Ibid.

32. Deborah Zandstra, "The European Sovereign Debt Crisis and Its Evolving Resolution," *Capital Markets Law Journal* 6.3 (2011): 285–316. Two stability mechanisms were used to administer the rescue programs: the European Financial Stability Mechanism and, when more substantial interventions were required, the European Financial Stability Facility.
33. Blundell-Wignall and Slovik, "Market Perspective."
34. Manuel Pastor, "Latin America: The Debt Crisis and the International Monetary Fund," *Latin American Perspectives* 16.1 (1989): 79–109.
35. David Felix, "Latin America's Debt Crisis," *World Policy Journal* 7.4 (1990): 733–71.
36. Ibid.; Pastor, "Latin America."
37. Pastor, "Latin America."
38. Ibid.
39. Felix, "Latin America's Debt Crisis."
40. Léonce Ndikumana and James Boyce, *Africa's Odious Debts: How Foreign Loans and Capital Flight Bled a Continent* (London: Zed Books, 2011).
41. Ibid.
42. Ibid.
43. For a much more detailed examination of the relationship between economic and social rights and macroeconomic policy, see Radhika Balakrishnan and Diane Elson, eds., *Economic Policy and Human Rights: Holding Governments to Account* (London: Zed Press, 2011).
44. We do not consider here the question of whether human rights can be said to exist prior to the legislation or legal institutions that define those rights. For a fuller discussion of these issues, see Amartya Sen, "Elements of a Theory of Human Rights," *Philosophy and Public Affairs* 32.4 (2004): 315–56; Sen, *The Idea of Justice* (Cambridge, Mass.: Harvard University Press, 2010).
45. See, for example, M. W. Mutua, "Savages, Victims, and Saviors: The Metaphor of Human Rights," *Harvard International Law Journal* 42.1 (2001): 201–45. Mutua argues that traditional human rights discourse creates "savages," "victims," and "saviors," which reinforce existing global stratifications (e.g., the saviors are represented by governments and human rights organizations in the global North that attempt to rescue victims from savages in the global South).
46. David Kennedy, *The Dark Side of Virtue: Reassessing International Humanitarianism* (Princeton, N.J.: Princeton University Press, 2005).
47. Thomas Nagel, "The Problem of Global Justice," *Philosophy and Public Affairs* 33.2 (2005): 113–47.
48. Sen, *Idea of Justice*.
49. Ibid.
50. Key international agreements that elaborate the details of the economic and social rights framework include the Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. The obligations implied by international human rights instruments have been spelled out more fully though a number of mechanisms, including General Comments and General Recommendations issued from time to time by UN treaty monitoring bodies, such as the Committee on Economic, Social and Cultural Rights, and by experts in international law, such as the groups of experts who produced the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights.
51. India's National Rural Employment Guarantee Act is an example of an "employer of last resort" program. Brazil's *bolsa família* is an example of a conditional cash transfer program.
52. In the economic and social rights framework, this is referred to as the obligation of the state to fulfill rights and does not necessarily imply direct provisioning by the government.
53. Some of these principles do not apply to civil and political rights. For example, civil and political rights are often deemed to be immediate rights. Therefore the principles of progressive realization and maximum available resources are not applied.