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WHY SOCIAL TRANSFERS: THE RIGHTS CASE

Introduction

This brief discusses the ethical justification for social transfers. This argument appeals to morality and social justice - the humanitarian imperative to assist people during crises, redress social and economic inequalities, and ameliorate severe forms of deprivation and distress.

Such concern motivates many activities of charities, civil society and NGOs. In terms of government responsibilities, the argument invokes social rights, as articulated in international declarations and covenants like the Universal Declaration of Human Rights.

Ethical arguments underpin many civil society campaigns, such as the 'Basic Income Grant' coalition in South Africa, which promotes the case for guaranteed, predictable social transfers by the state to all citizens, both as a right of citizenship and as a practical means of tackling chronic poverty and vulnerability.

The right to social protection

The right to social protection is an important human right for those concerned with breaking the inter-generational cycle of poverty, with enabling access to essential services, and with securing an adequate standard of living for the most vulnerable and excluded citizens.

Social protection policy must be consistent with human rights standards and principles (see below). It is also important that the formulation and implementation of social protection policy takes account of human rights, particularly in respect to participation, inclusion and voice.

A comprehensive approach to social protection argues for the elimination of the structural causes of vulnerability and risk, and for clear links to other essential services and resources. It also argues for an empowering approach that promotes equality of opportunity.

Implementing the right to social protection

The specific standards of the human right to social protection are codified in internationally agreed human rights declarations, conventions and agreements (see box). Once a state ratifies international treaties affirming the right to social protection, an individual is entitled to claim social protection from the state, and the state agrees to be accountable to the international community for this right. While human rights place obligations and duties on all in society, the state is responsible for the necessary regulation to guarantee that those rights are respected.

A state has the duty to respect, protect and fulfil the right to social protection. The obligations to **respect** and **protect** have immediate effect. The obligation to **fulfil** (meaning in this case that the state must positively facilitate, provide and promote the right to social protection) can be met progressively according to resources and capabilities. But even here, the state must clearly describe how it intends to achieve this - what legal, administrative and budgetary steps it will take towards full realisation. This transparency of planning and strategy is essential to avoid policy fragmentation and piecemeal initiatives: a regional example would be the timebound "road-map" developed in Malawi to guide the process of developing a national social protection policy.

Conformity to the basic principles of human rights

Social protection policies must be consistent with general human rights principles of:

- **Universality**
- **Indivisibility and interdependence**
- **Equality and non-discrimination**
- **Participation and inclusion**
- **Accountability and rule of law**
- **Availability, adequacy and accessibility.**

This has implications in the design of social protection instruments and mechanisms, for example:

- **Form of transfer:** Giving food or in-kind benefits may deprive people of choice and prevent them doing what is in their or their family's best interest (see brief 4).
- **Targeting:** Self-selection can be stigmatising. Community-led targeting may leave out people marginal to the community. Thus targeted programmes, while satisfying the pressure to keep costs down, may exclude those in most need (see brief 6).
- **Conditionality:** Conditions (such as work requirements) may undermine people's ability to care for dependents or to provide for subsistence needs, or it may deny them the choice to do what they know is best for their welfare. If conditions are not met, benefits should not be punitively withdrawn: instead, further support should be triggered, or access facilitated to broader development benefits (such as access to education or health services).

International declarations on the right to social protection

Universal Declaration of Human Rights, UN, 1948 - *Everyone, as a member of society, has the right to social security (art. 22); everyone has ... the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (art. 24).*

International Covenant on Economic, Social & Cultural Rights, 1966 - *The States party to the Covenant recognise the right of everyone to social security, including social insurance (art. 9).*

International Conventions on: All Forms of Racial Discrimination (1965); Elimination of All Forms of Discrimination against Women (1979); The Rights of the Child (1989); and The Protection and Promotion of the Rights and Dignity of Persons with Disability (2007).

Livingstone Call to Action, African intergovernmental meeting, 2006 - *Social protection is a basic human right... that directly tackles poverty, contributes to economic growth and stimulates local markets.*

Core obligations

Core obligations in human rights are those which provide a minimum essential level of the right and which take immediate effect. A General Comment on the Right to Social Security, currently (May 2006) being drafted by the UN Committee on Economic, Social and Cultural Rights, proposes the following core obligations:

- A minimum essential level of social security which ensures access to water and sanitation, foodstuffs, essential primary health care, basic shelter and housing and basic education
- Non-discriminatory access, especially for disadvantaged and marginalised groups
- Implementation of a national social security strategy and plan of action, and monitoring of realisation and non-realisation on the right
- Social assistance to protect marginalised and disadvantaged groups.

Many organisations, such as the International Labour Organisation, are campaigning to have these core obligations extended to include explicitly a minimum level of basic family allowances, disability benefits and old age pensions.

The right to social protection is closely linked to other core obligations. The existing core rights to health, food, and education provide strong additional arguments for the right to social protection.

Enforcement and monitoring

The obligations to respect, protect, and fulfil all require an effective regulatory system which includes independent monitoring, public participation and enforcement. Violations of a right occur when the state can be shown to be unwilling, negligent or discriminatory. A state cannot be said to have violated a right if it can show that there are genuine resource constraints, that it has sought additional resources where feasible (for example aid), or that there are circumstances beyond its control.

Indeed, in such cases, there is a strong moral argument that a state could expect support from donors and international agencies, both in terms of funding and in terms of technical assistance to introduce new systems and processes in order to fulfil its obligations.

Advocacy to have social protection recognised in national constitutions, bills of rights, policies, laws and national poverty reduction programmes can be a useful strategy, and provides the foundation for rights to be legally enforceable. It is noticeable that those countries with a history of vibrant civil society activism, for example South Africa, also have the best levels of social protection.

Convergence around the right to social protection

Some approach the right to social protection from the perspective of support to the ultra-poor or to the 'hungry'. Others argue for approaches to assist broad categories of society who are most often associated with poverty and vulnerability, such as older people, the disabled, and children. Still others have special interest in helping, for example, orphans, or people living with HIV/AIDS, or exploited workers. The potential of the rights-based argument for entitlement to social protection is its ability to rally all such advocates together under one banner, to campaign for universal and comprehensive policies to reduce unacceptable levels of vulnerability and risk.

In conclusion

The human right to social protection requires us to: respect human rights standards; understand social protection as more than charity or simply a technical response to vulnerability; ensure that social protection policy is consistent with human rights principles; and support vulnerable and marginalised groups to participate in shaping policy. But beyond this, it is up to those who champion social protection as a right to choose the priorities and strategies that will work in a particular environment, whether this means being highly vocal about human rights, or quietly using them to frame their analysis and actions. Whichever approach is adopted, a human rights framework ensures that, as citizens, we are all aligned to the same goal.