

Economic and Social Rights and Development Aid

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In many low and lower-middle income countries, the fulfillment of essential economic and social rights relies at least in part on externally-funded development assistance.¹ For scholars and practitioners interested in economic and social rights, this poses serious challenges to how we understand the role and function of the national government in protecting, defending, and fulfilling economic and social rights, consistent with national government obligations codified in the International Covenant on Economic Social and Cultural Rights (ICESCR), among other international covenants and agreements. In particular, externally-funded social safety nets, including the rise of externally-funded cash transfer programs, invites us to reconsider: 1) the concept of the duty-bearer as it relates to economic and social rights, 2) the challenge of accountability and its centrality to economic and social rights, and 3) the ways in which externally-funded efforts promoting economic and social rights fulfillment may impact state-society relations and the social contract. To be clear from the beginning, this chapter is not arguing against foreign or external assistance. In cases where national governments are unable to ensure the economic and social rights of their citizens are protected and fulfilled it is necessary for external financial support. My objective here is to examine the practical and theoretical challenges foreign funding presents to the fulfillment of human rights, with an eye to challenges it presents to accountability and the social contract.

¹ The classification of “low-income” and “lower-middle income” countries is determined by the World Bank based on GNI per capita. On the World Bank’s classification system see: <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>. It should be stated clearly, however, that any broad classification method (by income or other means) will conceal important variation across countries. It should also be stated clearly that economic inequities between countries have been perpetuated by colonialism and international financial and trade policies which have disproportionately favored a small handful of high-income countries over the majority of countries in the world.

Navigating the Nexus of Rights and Development

Whether through foreign government or intergovernmental organization (IGO) funded social cash transfer programs or non-governmental organization (NGO) led community interventions, the fulfillment of many economic and social rights (e.g., the human right to food, health care, housing, and education) in many countries in the world relies on funding from foreign actors. Externally funded cash transfer programs in particular are increasingly prevalent in low and lower-middle income countries as external donor states, IGOs and NGOs seek to maximize “efficiency” in their development aid.² These programs provide small amounts of cash, either with or without conditions (usually tied to school attendance and medical visits) aimed at supporting vulnerable citizens in their efforts to secure adequate food, housing, education, and medical care. While the language of promoting “social safety nets,” “social assistance,” or “social protection” instead of “economic and social rights” is generally used, at times these programs may represent the most significant non-familial assistance provided to citizens in support of their economic and social rights fulfillment.

In the case of some lower income countries, especially in sub-Saharan Africa, while these programs may be run through national government offices they may be funded in whole or part by foreign actors such as the development agencies of foreign governments (e.g., the United Kingdom’s Department for International Development (DFID) or the United States Agency for International Development (USAID)) or through IGOs like the World Bank or UNICEF. This funding may directly support program costs or it may come in the form of support for pilot initiatives, the funding of technical advisors or study tours, among other forms of assistance. To name just a few examples, the Hunger Safety Net Programme (HSNP) in Kenya, the Social Cash Transfer Program in Malawi, the Productive Safety Net Programme (PSNP) in Ethiopia, the Productive Social Safety Net Programme in Tanzania, and the Livelihood Empowerment Against Poverty Programme (LEAP) in Ghana have all received funding from external actors. At the local (community) level, smaller scale cash transfer programs and pilots are often funded and run by NGOs, often also with foreign government funding. The result is a complex network of

² On the sharp rise of cash transfer programs internationally see Hanlon, Barrientos, and Hulme (2010); Foli (2016; pp.270-271) and in sub-Saharan African countries specifically see Hickey and Seekings (2020).

external funding provided with its own set of guidelines and conditions where national governments may be asked to play the role of program implementer in social safety net programs for agendas ultimately funded and at least partially designed by foreign actors.

Rethinking the “Duty-Bearer”

Who ought to be obliged to ensure an individual’s economic and social rights are fulfilled? This seems like a simple enough question. If economic and social rights are to be understood as human entitlements, surely some entity must be obligated to ensure these rights are fulfilled. Proclaiming access to adequate food, housing, health care, education, among other human needs as human rights without any actor carrying responsibility and obligation for them would of course ring hollow. Who, then, is the “duty-bearer” for an individual’s economic and social rights?

As simple as this question may appear, answering it is not.³ There is a general consensus among philosophers, legal scholars, and human rights theorists that *national governments* ought to be the primary duty-bearers when they are capable of doing so. But what about states where capacity is in doubt? Surely, this constitutes a great many, if not the majority, of states in the world. What about in these cases? Who, then, is obliged to ensure the economic and social rights of those living in states with limited capacity? It is beyond the scope of this chapter to discuss the full range of scholarship addressing the contours of a “duty-bearer,” but below I engage with just a few of the most influential arguments about whose duty it is to ensure economic and social rights are fulfilled.

In 1972, philosopher Peter Singer urged readers to consider the ethics of obligation as it related to famine in Bengal. He posed the following thought experiment: Imagine you are walking by a pond and see a child that had fallen in. Even if it meant ruining your clothes, are you morally obliged to jump in and try to save the child?⁴ He answers, unsurprisingly, that you are indeed morally obliged to try to save the child, even at the expense of your clothes. This act is your

³ On the complexity of understandings of obligation around the right to food, see Jurkovich (2020b).

⁴ Singer (1972: 231).

duty, rather than an optional act of charity (otherwise known as a supererogatory act).⁵ The principles at play here, according to Singer, apply not only to this child at a local pond but to a hungry child halfway around the world. In his words, “Neither our distance from a preventable evil nor the number of other people who, in respect to that evil, are in the same situation as we are, lessens our obligation to mitigate or prevent that evil....if it is in our power to prevent something very bad from happening, without thereby sacrificing anything else morally significant, we ought, morally, to do it.”⁶ Neither one’s distance to those suffering, nor the trade-off of something of value in order to help someone else, nor even the fact that others may also be able to help relieves an individual from their obligation (duty) to help those in need (p.234).

Thinking of the case of famine in East Bengal at the time of his writing, Singer argues that as in the pond analogy, there is an *individual* duty to mitigate hunger, even halfway around the world. Singer reflects on the words of Ambrosius in *Decretum Gratiani*, “The bread which you withhold belongs to the hungry; the clothing you shut away, to the naked; and the money you bury in the earth is the redemption and freedom of the penniless.”⁷ Singer does not dispute that foreign governments also ought to be obliged to provide assistance, but considers it inappropriate to put exclusive weight on governments to do so. He sees no reason why comparatively better off individuals ought not share in this obligation. Indeed, he considers whether those who argue it is the exclusive duty of governments to ensure access to adequate food might simply be using this argument to let themselves off the hook for doing what they could (pp.239-240). In terms more commonly used among human rights theorists, Singer understands the individual as a “duty-bearer” at least when it comes to access to adequate food. Singer is not alone in his focus on the obligations of individuals. In speaking of obligations across the broad category of human rights, Amartya Sen (2004: 340) also highlights the role of the individual in fulfilling human rights, although he notes “The recognition of obligations in relation to the rights and freedoms of all human beings need not, thus, be translated into preposterously demanding commands.”

⁵ On the concept of the supererogatory, see Urmson (1958); Wolf (1982); Jurkovich (2020a)

⁶ Singer (1972: pp.234-235).

⁷ Singer, 1972, p.239, quoting *Summa Theologica, II-II, Question 66, Article 7, in Aquinas, Selected Political Writings*, ed A.P. d’Entreves, trans J.G. Dawson (Oxford, 1948), p. 171.

Some scholars conceptualize the “duty-bearer” broadly, arguing that many different actors have many different types of obligations to ensure the fulfillment of economic and social rights. This multifaceted “duty-bearer” includes, to quote Henry Shue (1996, p. 166) “waves of duties” across “webs of duty-bearers.” Conceptualizing three basic “correlative duties” to any basic right, Shue maps a wide array of actors obliged to serve as some degree of “duty-bearer” for these rights including national governments, foreign governments, non-governmental organizations, as well as affluent individuals (pp. 56, 60, 142-143, 150).⁸ Scholars such as John Ruggie would add private sector actors, notably transnational corporations, to this list of duty-bearers (Ruggie 2013).

Like most human rights theorists, Shue understands national governments as the primary duty-bearer for ensuring basic rights (p.56), but he wonders whether national governments necessarily “are best able to care for the welfare of the people of that nation” (p.142). He leaves this as an empirical question left to investigation: “But, as we have already seen, it seems most unlikely that every domestic government is always better able to comprehend and to implement the best solutions for all the problems of its people that might concern others. Comprehension of effective solutions may require managerial or technical experience not available domestically, and implementation may require capital or a will to change not found domestically” (p. 143). As we see here, the obligation of national governments may hinge to some degree on outside perceptions of state (in)capacity.⁹

As is likely already evident, attributing responsibility to specific actors for specific duties to ensure economic and social rights are fulfilled is a difficult and complicated task. Beetham (1995) considers the lack of clarity on who constitutes the duty-bearer for economic and social rights to be especially problematic in efforts to advance this category of rights as equally legitimate as their civil and political counterparts. In response, he posits a tiered system of obligation with national governments serving as the primary duty-bearer. If the national government lacks the capacity to do so, the obligation “clearly falls to other governments with

⁸ The three correlative duties are “to avoid depriving,” “protect from depriving” and “aid the deprived” (Shue, 1996,p.60). Shue understands security and subsistence as “basic rights” necessary for all other rights to be enjoyed.

⁹ On the primary role of states as duty-bearers see also Donnelly (2003, 34-35).

the resources to do so, coordinated by an international body such as the UN and its agencies” (p.54).

A lack of clarity not only around who the duty-bearer is but also on the institutional mechanism for redress when an economic and social right is violated is taken up forcefully by Onora O’Neill, who argues that if an economic, social, and cultural right is not institutionalized then, quite simply, “there is no right.” (1996, p.131). Instead, she argues:

when supposed universal rights to goods, services or welfare are not met, and no institutions for distributing or allocating special obligations have (yet) been established, there is systematic unclarity about whether one can speak of violators, and not just contingent uncertainty about who they might be. If it is not in principle clear where claims should be lodged, appeals to supposed universal rights to goods or services, including welfare, are mainly rhetoric, which proclaim ‘manifest’ rights against unspecified others (p.132).

Whereas human rights theorists have varied and complex understandings of the duty-bearer, in terms of international human rights law, primary responsibility for ensuring economic and social rights falls with the national government, not with individuals or organizations. The International Covenant on Economic, Social, and Cultural Rights (ICESCR), for example, articulates this obligation in article 2.1, clearly stating that a state party is required “to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant.” The ICESCR acknowledges that international co-operation may be required when a state lacks capacity to ensure this right for all of its citizens but that the primary responsibility for doing so rests with national governments. Article 11 of the ICESCR further articulates the expectations of states with respect to ensuring the right to food and General Comment 12 provides further clarity on the state’s tripartite responsibilities to “*respect, to protect and to fulfil*” the right to adequate food.¹⁰

¹⁰ United Nations Committee on Economic, Social and Cultural Rights 1999, para. 15, emphasis in the original. In contrast the two articles (2 and 11) of ICESCR referenced here, which are legally binding, General Comment 12 is a (nonbinding) recommendation adopted by the Committee on Economic, Social, and Cultural Rights after the adoption of the ICESCR. Legal scholar Ashjorn Eide developed the “tripartite” obligation language, and has co-edited two excellent collections on the right to food in international law. See Eide and Kracht (2005; 2007).

Previous discussions by human rights theorists of the role of the duty-bearer are complicated, however, by externally funded programs where a citizen's fulfillment of their economic and social rights may rely in significant part on programs funded by foreign actors. In cases such as these, national governments may implement the programs, but power asymmetries with external donors may mean that such donors have an oversized role in designing the program, determining which citizens will be eligible for the program (i.e., making targeting decisions), and in controlling when the program starts and when it ultimately concludes. Of course, as we will see in the sections that follow, cases vary significantly in how much authority national governments continue to exercise in running such programming (even when receiving foreign funding), and external donor influence may be more limited in some cases than others. But this more complicated duty-bearer arrangement for ensuring citizens' economic and social rights are fulfilled, when power and authority may extend beyond the reach of rights holders, complicates efforts at accountability and influences state-society relationships and the social contract. I examine some of these challenges below, with an eye to why these challenges should matter to scholars and practitioners interested in economic and social rights fulfillment.

Accountability Challenges

Part of the importance of the duty-bearer role is that rights holders should be able to both recognize who is ultimately obligated to ensure their rights are fulfilled and have access to that actor to demand redress if they are not. The rise of foreign funding in efforts to ensure economic and social rights complicates the picture of the duty-bearer that follows, raising difficult questions about accountability and its centrality to human rights. Accountability in reference to foreign-funded programming and aid in low and lower-middle income countries receives no shortage of attention among practitioner and academic literatures, but such conversations more frequently focus on questions of accountability of implementing partners to donors (and donor governments) and protections against fraud and mismanagement of funding, than on how to ensure duty-bearers (especially when the role is split between foreign governments,

intergovernmental organizations, and national governments) are held accountable to rights holders themselves.¹¹

If we think of human rights as *entitlements* and their fulfillment as obligatory and not optional acts of charity, accountability becomes an essential feature for ensuring their fulfillment. Systems of accountability are what ensure individuals have a mechanism to not only express grievances when rights remain unfulfilled but demand a response and redress from duty-bearers themselves. In this way, accountability is essential to ensuring the dignity of the rights holder. If I am entitled to adequate food and yet this entitlement remains unfulfilled, I must have meaningful access to whomever is responsible, not just in theory but in practice, for fulfilling this right. The absence of accountability only makes sense when the fulfillment of human rights is seen as an optional act of charity. If one assumes individuals ought to be grateful for whatever food, shelter, or health care they get, as they are not inherently entitled to any, then accountability is unnecessary. One cannot hold anyone accountable for doing something which they are not required to do, after all.

To be sure, even when national governments themselves are wholly in charge of the funding, organization, design, and implementation of programs and policies to ensure the fulfillment of the economic and social rights of their people, it can be extremely difficult to hold the national government accountable when it fails to meet these objectives. The extent to which economic and social rights are justiciable is frequently contested, and even in cases where specific economic and social rights may be guaranteed in national constitutions, these rights may lack any judicial avenue for redress.¹² In terms of international bodies and institutions, avenues for

¹¹ Humanitarian and development practitioner communities have, however, developed some general guidance on accountability of implementing partners to program participants, for instance through the Sphere Standards. This guidance, however, rarely engages with questions of accountability of donors (not the INGOs/NGOs they fund) to rights holders.

¹² See Jung, Hirschl, and Rosevear 2014. There may also be significant variation across different economic and social rights in a given country in terms of access to redress through judicial means. Just because an individual may be able to sue the government for a failure to ensure the right to access to primary education does not mean the individual could also sue for a lack of adequate food. On the challenge of holding the state accountable for its responsibility to ensure the right to food in India with the People's Union for Civil Liberties (PUCL) v. the Government of India and Others, Writ Petition (Civil) No. 196 of 2001, see Birchfield and Corsi 2010; and Hertel 2015.

individuals to hold their governments accountable for ensuring their economic and social rights are similarly limited. While an individual complaint mechanism entered into force for violations of civil and political rights in 1976 with the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), it was not until 2013 that the Optional Protocol to the ICESCR went into force providing a venue and procedure for individual complaints of economic and social rights violations.

Given the challenges of using judicial processes to hold national governments accountable to ensuring economic and social rights, alternative mechanisms such as applying social and political pressure may be more frequently used. In countries with free and fair elections, citizens can hold duty-bearers responsible at the ballot box and in countries where political protests are possible, social movements and advocacy are additional means by which citizens can hold national governments accountable for the fulfillment of their economic and social rights. And yet, when the role of duty-bearer is, for all practical purposes, divided between national governments and foreign funders, these expected mechanisms by which citizens can hold the state accountable become more challenging when the means of fulfillment of these economic and social rights is provided by and at times managed by foreign actors.

Central to ensuring effective accountability between the rights holder and duty-bearer for economic and social rights is ensuring access to decision-makers. Carroll (2011, p. 91) notes that “accountability of governments to citizens on social protection issues is weak” generally, and that efforts at effectively influencing governments on social protection programs are difficult as it would require “negotiating with different ministries and multiple donors, all with different agendas.” A citizen in Malawi receiving assistance from the Social Cash Transfer Program in a region where the transfer is mostly funded by the World Bank, for example, is unlikely to have access to World Bank officials in Washington, DC if she wants to seek redress for grievances. She may have access to district-level and national government officials overseeing the program, but given the complexity of actors involved in funding and decision-making for the program, that

access may be insufficient to provide redress. And if this cash transfer is the primary means of support for this citizen to ensure her access to adequate food and housing, for example, a lack of accountability could be detrimental to the fulfillment of her economic and social rights.

A core concern here is whether meaningful accountability is possible if rights holders lack access to those who have power to directly shape the policies which serve as the primary means of fulfilling their economic and social rights. When non-state actors, including international donors, are in charge of providing social protection, there may be “no direct line of accountability between providers and ‘beneficiaries.’” (Devereux, McGregor, and Sabates-Wheeler, 2011, p.2). Ouma and Adesina’s (2018) analysis of the case of the Hunger Safety Net Programme (HSNP) in Kenya is especially instructive on this point. The HSNP, a program under the National Safety Net Program in Kenya, began as a pilot program in Northern Kenya in 2009 and was funded primarily by DFID until 2013. The Government of Kenya reports that it “gradually took over up to 58 percent of the cash transfer caseload pursuant to the programme's Financing Agreement” during the second phase of the program (2013-2019) and by the 2018-2019 year, it funded 72% of cash transfers with DFID funding 28%.¹³ And yet, according to Ouma and Adesina (2018: 286):

The HSNP began neither with a systematic scoping of a possible solution nor with the testing of effective solutions, rather transnational actors prescribed a pre-determined policy solution... In confirmation, a government official stated thus, ‘DFID woke up and decided they want a cash transfer programme, they had the money for the programme for five years. The government was not consulted but since DFID had the money and were not asking government to fund the programme, the government agreed.’ (MGSCD-02, 25 April 2016)

DFID retained significant control of HSNP decision making, at least in the early stages of the program, and international NGOs served as program implementers (Ouma and Adesina (2018, p. 386-389; Hurrel and MacAuslan, 2012, p.266).¹⁴ Hurrel and MacAuslan (2012, p. 266) noted that that instead of being associated with the national government, at least during the early years

¹³ <https://www.hsnp.or.ke/index.php/as/objectives>

¹⁴ Ouma and Adesina (2018, 388-399) note that domestic civil society organizations in Kenya were often excluded or marginalized in favor of international NGOs, who were given more powerful implementation roles for foreign-funded cash transfer programming.

of the program, HSNP was “associated in most people’s minds with external agents such as the British government or NGOs, or the Equity Bank which delivers the HSNP transfers.” HSNP was described by one of Ouma and Adesina’s (2018:387, emphasis original) interviewees, who was involved in Phase 1 of the program’s development, as “*donor initiated, donor driven, donor implemented, but government branded*” (TTC-04, 13 April 2016; CSO-05, 28 September 2016).” One of the ways this control was facilitated was through the Programme Implementation and Learning Unit (PILU), which DFID used to “manage the programme.” Even though the PILU fell within the national government’s own National Drought Management Authority, “the team reported directly to DFID.” (Ouma and Adesina, 2018, p. 387). The Government of Kenya, at least in the early stages of this program, was not a “policy lead” but rather “an enabler and facilitator” of the HSNP programme (Ouma and Adesina, 2018, 387). In these early years in particular, if HSNP was one of the main ways in which an individual in Northern Kenya’s right to food was fulfilled, control over program decision-making residing in a foreign government’s development agency could make accountability difficult.

The rise of externally-funded cash transfer programming in sub-Saharan Africa often begins with a multi-year pilot initiative. The precarity of these programs serve to make accountability by the rights holders to decision-makers even more difficult. According to Hurrell and MacAuslan (2012, p.267), “The pilot nature of these programmes provides little basis for people to make demands to improve the structure of the programmes. There is no formal or legal commitment to providing these resources, and hence no legal hook on which to peg a rights-based demand.” Additionally, when cash transfer pilots are designed and implemented by foreign-funders when a country already has an existing social safety net program in need of resources, the pilots can serve to reduce state capacity and commitment to social protection.¹⁵

Influencing state-society relations and the social contract

Several scholars of externally-funded social protection programs have cautioned that such programming may influence state-society relations and the social contract between national governments and citizens in complex and problematic ways.¹⁶ Instead of leading citizens to

¹⁵ See Harland (2014).

¹⁶ For an excellent review of the literature on the effects of social protection programs in lower income countries on state-society relations, see Alik-Lagrange, Dreier, Lake, and Porisky (2021).

further demand fulfillment of their economic and social rights, some scholars argue externally-funded cash transfers are less likely to be framed as supporting “human rights” and less likely to result in citizens claiming their rights. According to Hurrell and MacAuslan:

In part, this is because many [cash transfer programs in sub-Saharan African countries] are funded or run by donors or NGOs, so there is no contract to which these institutions can be held accountable. ‘Rights’, in these cases, are more akin to consumer rights (e.g. the right of a programme recipient to be treated in accordance with the programme’s rules while the programme is in operation), and do not extend to citizenship rights (e.g. those around which citizens could demand government support to ensure a minimum level of material well-being). (2012, p.263)

Replacing “human rights” terminology for “social protection” may seem to be insignificant, but this shift can signal very different understandings of entitlement to essential provisions.¹⁷ On the one hand, foreign-funders may have deliberately avoided “rights” language because of concerns that national governments would be less likely to support programs they would be expected to fund long term (Hickey and Seekings, 2020, p.267). In this way, avoiding the language of “rights” in favor of a more “technical” approach to social protection may have been done strategically to increase the chance of program support and survival.¹⁸ On the other hand, the ways in which foreign-funded “social protection” programs have been designed may reflect a perceived hierarchy of those “deserving” of assistance (and those “undeserving” of such assistance) instead of an entitlement approach suggesting all are equally entitled to such economic and social rights as adequate food, health care, education, clothing, and housing. For example, Ouma and Adesina (2018, p. 379) draw parallels to the targeting criteria in some cash transfer programs to the concept of a “deserving” poor in the English Poor Laws. Whether it is a focus on the “economically productive” as worthy of social protection, or only women and children or the elderly, targeting criteria in social protection programs set limits to who is entitled to adequate assistance. Moreover, when cash transfer programs are designed to be *conditional* on certain behaviors (such as ensuring children attend school and/or make health care appointments) these conditions often apply a disproportionate cost on women, who are traditionally more likely to carry the burden of ensuring these conditions are met in order for the

¹⁷ Although some scholars have questioned the usefulness of ‘human rights’ framing, at least when the focus is on legal protections and constitutional provisions to ensure rights. See Ferguson (2015, pp 47-51).

¹⁸ On the “technical” instead of “political” framing of cash transfer programs see Hickey and Seekings (2020, p. 265); as well as Ouma and Adesina, 2018, p. 387-388.

household to have access to needed assistance.¹⁹ The broader concern here is that while human rights theorists tend to see rights as equal entitlements, not restricted only to those “deserving” of them and not due only to those who perform a required behavior to meet specific conditions of assistance, social protection schemes often do impose targeting restrictions and their provision is often conditional.

As international donor representatives are neither elected by citizens in countries where they fund social protection programs nor, as discussed in the previous section, are there necessarily clear or effective mechanisms by which citizens can hold international donors accountable for effective programming, when they have authority over shaping national social policies this can complicate state-society relations.²⁰ Instead of states negotiating with their citizens over how to develop appropriate social policies to ensure citizens have access to an adequate standard of living, citizens can be sidelined as donors exercise significant influence.

When the results of donor-imposed policy changes negatively impact citizens’ ability to exercise their economic and social rights, and citizens have little recourse for redress or means of holding international donors accountable, as discussed in the previous section, the legitimacy of the state as authoritative in providing for citizens and the social contract may well be lessened. On this account, consider the recollection of Stephen Lewis, former UN Special Envoy for HIV/AIDS in Africa:

I remember being in Malawi in 2002 at a roundtable discussion with the vice-president and a number of civil servants from the Ministry of Finance. They were complaining bitterly about the limits imposed by the International Monetary Fund on Malawi’s public sector pay levels and hiring intentions. It was surreal: here you had a country with huge human capacity problems that wanted desperately to retain its professionals in health and education, and increase their numbers, but the IMF wouldn’t allow them to do so. We’re talking about a sovereign government, fighting the worst plague in history, with but a handful of professionals: according to the minister of health, Malawi has one-third of the nurses it needs (4,000 instead of the 12,000) and perhaps 10 per cent of the doctors (300 rather than 3,000) for a population of 12 million. And they weren’t being allowed—*I repeat, this sovereign government wasn’t being allowed*—to hire more staff and pay

¹⁹ Of course, the burden placed on women in conditional cash transfers is not unique to foreign-funded programs. See Cookson (2018) for a discussion of the unequal burden on women of cash transfers in Peru. See also Carroll, 2011, p.92.

²⁰ On the lack of accountability of the World Bank, IMF, and WTO to citizens, see Woods and Narlikar (2001)

better salaries, because it would breach the macroeconomic straitjacket... “ (Lewis, pp.14-15, emphasis added)²¹

While external donor involvement in shaping social protection programs and policies in lower income countries has been characterized by scholars as “coercive,”²² an exercise in “dominance”²³ and “asymmetrical power relations” potentially resulting in the “vertical imposition” of some cash transfer programs, particularly in sub-Saharan African countries,²⁴ scholars have also noted various ways in which national governments have combatted efforts by foreign donors to control essential social policy decisions. To take one example, consider the case of the program now referred to as the Farm Input Subsidy Program (FISP) in Malawi. When Malawi wanted to begin a national fertilizer subsidy program, government officials argued it would be effective in reducing hunger and increasing agricultural production. Donors disagreed and the structural adjustment program (SAP) promoted by international financial institutions at the time ultimately resulted in a mandate that Malawi stop its fertilizer subsidy program in 1987. In the years that followed, hunger rates went up and eventually, in the late 1990’s, DFID, at least, seemed to recognize the elimination of the program was a mistake. In response, some donors (with DFID leading the effort) funded an input subsidy program providing seeds and fertilizer, which “was very popular with farmers and the government of Malawi, but unpopular with other donors, which saw it as an acknowledgement that the [Fertilizer Subsidy Removal Programme] had failed.” (Devereux and White, 2010, p.65). Donor funded efforts waxed and waned in the following years, and the Malawian government responded by reinstating its Input Subsidy Program, funded entirely by the Malawian government. Indeed, as Devereux and White (2010, 66) conclude, “In belated recognition of the positive impacts on agricultural production and the government of Malawi’s determination to continue the Input Subsidy Programme, several donors are now volunteering their support.” Now called FISP, the program remains widely popular among Malawian citizens, and while it remains controversial, recent studies have indicated it successfully improves child nutrition and dietary diversity across households for program participants.²⁵ In the case of FISP, donor

²¹ See also engagement with this speech in Adesina (2007, p. 17)

²² Tambulasi, 2013, p. 81

²³ Ouma and Adesina, 2018, p.381

²⁴ Ouma and Adesina, 2018, pp.378, 381

²⁵ See, for example: Harou (2018); Walls et al (2018)

preferences did not drive the creation of this social assistance program and while SAP did, for a time, curtail the program, it was reinstated and continues to be managed by the national government even when some donors (notably the United States) advocated against it. In other countries in sub-Saharan Africa, donors exerted “ideational power” to shape pilots of cash transfer programs, but national governments resisted efforts to expand the programs or fund them through the respective national governments (Hickey et al, 2020, pp. 12- 13).²⁶ In the case of Livelihood Empowerment Against Poverty (LEAP) program in Ghana, for example, Foli (2016, p.278) argues that that the influence of transnational actors, such as DFID and UNDP, while significant, cannot be said to have imposed the cash transfer program on the Ghanaian government. Rather, this influence was more complex, with transnational actors instead leveraging “multiple strategies including ideational, institutional, and material incentives” to exert influence (Foli, 2016, p.268). It would be a mistake, in other words, to assume a uniform experience between external donors and national governments in sub-Saharan Africa.

Of course, externally-imposed constraints on state social protection policies are not new. SAPs mandated by international financial institutions such as the World Bank and the International Monetary Fund explicitly restricted national government spending on several essential social protection related policies, such as subsidizing health care. Adesina (2007) argues that this “retrenchment of the state” had damaging effects for how citizens viewed the social contract, as “The retreat of the state from social delivery (health care, education, human security, and so on) undermined the relevance and the legitimacy of the state in the eyes of its citizens” (pp23-24). In cases where states lack authority and capacity to ensure adequate social protection, the social contract itself may collapse. This collapse of the social contract “is particularly pertinent in countries where poverty and aid dependence mean that international donor agencies dominate the design and financing of social assistance and social insurance.” (Devereux, McGregor, and Sabates-Wheeler, 2011, p.2).

²⁶ See also Ulriksen (2020); Pruce and Hickey (2020).

To the extent that external actors retain power and control over efforts to fulfill economic and social rights in other countries, such interventions may impact not only efforts at accountability by rights holders to duty-bearers, but may also influence both state-society relations and the social contract. At the program level, this includes decisions about targeting and conditionalities (i.e., who is entitled to benefit from a program and what the individual needs to do in exchange for assistance), decisions that constitute and construct particular understandings about what an individual is entitled to and from whom. At a broader level, when the duty-bearer role is split between external actors and national governments, and national governments do not retain full authority in designing programming to ensure access to adequate food, health care, education, or housing of their people, the social contract itself may be weakened.

Conclusion

Foreign assistance can play an important role when states lack capacity to ensure the economic and social rights of their citizens. It can also pose challenges in ensuring the accountability of duty-bearers to rights holders and it can affect state-society relations and the social contract in meaningful ways. Increased attention to these potential effects of foreign funding and external influence in economic and social rights fulfilment is important for all those interested in ensuring the core values of dignity and accountability central to core purpose of human rights are maintained.

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