

SDG 1: End Poverty in All Its Forms Everywhere

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ABSTRACT

Poverty is a scourge affecting billions of people throughout the world. It is unsurprising that the international community has declared a fight against poverty. Sustainable Development Goal (SDG) 1, No Poverty, provides the clearest reflection of that declaration against poverty. This chapter assesses the contribution that SDG 1 can make to international law in pursuit of a world free of poverty. The assessment is made through the prism of ambition and solidarity – that is, whether the SDGs' commitment to the fight against poverty reflects a sufficient level of ambition and solidarity. The chapter's point of departure is that international law has paid lip service to the notion of solidarity. Through a survey of the areas of international law that are most relevant to poverty eradication – international human rights law and international economic law – this chapter assesses international law's potential to be a vehicle for the fight against poverty in line with the aspirations of SDG 1.

KEYWORDS

SDG 1, poverty, solidarity, cooperation, international human rights law, international economic law, World Bank, World Trade Organization, Human Rights Council

1.1 INTRODUCTION

Sustainable Development Goal (SDG) 1, No Poverty, aims to end poverty in our world.¹ Given that the global levels of poverty and inequality are quite simply staggering, this is

¹ See *Transforming Our World: The 2030 Agenda for Sustainable Development*, UN Doc. A/Res/70/1, 25 September 2015, para. 3.

an important goal in the overall architecture of the SDGs. According to a recent World Bank report, in 2015 the levels of “extreme poverty,” defined as persons living below US \$1.90 a day, stood at 736 million.² Statistically, this might be seen as an improvement compared to the nearly 2 billion people living in extreme poverty in 1990.³ Yet, these statistics do not reveal all. First, the threshold of US \$1.90 excludes many persons living in poverty.⁴ The picture looks bleaker when considering higher thresholds.⁵ Indeed, the World Bank’s more complex measure of poverty, which goes beyond consumption levels, shows that “the number of people who are poor stood at 2.1 billion as of 2015,” a figure that is three times that of persons living on below US \$1.90 a day.⁶ Second, whatever the decrease in the rate of extreme poverty, if we accept the slogan “Leave no one behind,” then, by these numbers, the international community is failing at least 736 million times over. Third, the World Bank report indicates that the rate of reduction in levels of extreme poverty has been on the decline in recent years.⁷ Fourth, while extreme poverty has decreased globally, it has increased in sub-Saharan Africa, making extreme poverty “a sub-Saharan African problem.”⁸

This picture of poverty is one that ought to trouble the “international community,” if such a community exists. This international community should be concerned that the number of hungry people is increasing while there is enough food to feed everyone in the world.⁹ From an ethical standpoint, the international

² World Bank Group, *Piecing Together the Poverty Puzzle: Poverty and Shared Prosperity* (World Bank, 2018), 1.

³ *Id.* The report states that “[d]espite the more sluggish global growth of recent years, the total count of people in extreme poverty declined by more than 68 million people between 2013 and 2015 – a number roughly equivalent to the population of Thailand or the United Kingdom.”

⁴ *Id.* In this connection, the report itself notes that the measure of US \$1.90 does not cover the many people who “can be defined as poor relative to their societies even at a consumption levels well above the US \$1.90 level.” In truth, there are many who can be described as poor in absolute terms, and not only “relative to their societies,” since the threshold of US \$1.90 is for “extreme poverty.” The CESCR has defined poverty more broadly as “a human condition characterized by sustained or chronic deprivation of resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.” See CESCR, *Substantive Issues Arising in the Implementation of the International Covenant of Economic, Social and Cultural Rights: Poverty and the ICESCR*, Doc. E/C.12/2001/10, 10 May 2001, para. 8.

⁵ World Bank Group, n. 2, 7. In addition to the US \$1.90 threshold, the World Bank also reports on the higher thresholds of US \$3.20 and US \$5.50. According to its most recent statistics, “nearly half of the world (46 per cent) lives on less than US \$5.50.” For criticism of the low threshold of the SDGs, see Liu Qian-Qian, Yu Man, & Wang Xiao-Lin, “Poverty Reduction within the Framework of the SDGs and Post-2015 Development Agenda” (2015) 6 *Advances in Climate Change Research* 67, 70.

⁶ World Bank Group, n. 2, 8.

⁷ *Id.*, 15.

⁸ *Id.*, 2.

⁹ William P. Quigley, “Revolutionary Lawyering: Addressing the Root Causes of Poverty and Wealth” (2006) 20 *Journal of Law and Policy* 101, 110.

community should be concerned that, while a few have plenty, the vast majority are impoverished and live in squalor.¹⁰ International law is a vehicle through which the concerns of the international community are expressed. Yet, there is no obligation under international law to act to eradicate poverty, nor do the SDGs set out legally binding obligations to eradicate poverty by 2030.

Yet, while SDG 1 does not constitute a rule of international law, it affects, and is affected by, international law in several ways. First, with the apparent shift of international law from a state-centric system anchored on bilateralism to one that is concerned with the human condition and based on community interests,¹¹ there seems to be much scope for international law's engagement with poverty and the pursuit of its eradication. After all, the levels of poverty undermine international law's purported pursuit of a better world. Second, many areas of international law address topics that relate to poverty eradication, including international human rights law, environmental law, and trade and investment law. Third, the search for international law's role in addressing poverty predates the SDGs.¹²

This chapter reviews the opportunities for, and the hurdles standing in the way of, international law playing a role in efforts to eradicate poverty through the lens of solidarity and ambition. First, like many of the SDGs, perhaps even more so, the achievement of SDG 1 is dependent on cooperation and solidarity.¹³ Second, given the high levels of poverty described above, the achievement of SDG 1 will require a high degree of ambition. While other areas of international law, such as the law related to environmental protection, labor rights, and the suppression of corruption, are also relevant to poverty eradication, the focus of this chapter is on areas of international law that are most directly relevant to the eradication of poverty: human rights law and aspects of economic law – in particular, international trade law and the law relating to international financial institutions.

¹⁰ Writing in 2005, Jeffrey Sachs expressed the optimism that “extreme poverty can be ended not in the time of our grandchildren, but in *our* time.” He explained his cause for optimism as follows: “The wealth of the rich world, the power of today's vast storehouses of knowledge, and the declining fraction of the world that needs help to escape from poverty all make the end of poverty a realistic possibility by the year 2025.” Jeffrey Sachs, *The End of Poverty: Economic Possibilities for Our Time* (Penguin Press, 2005), 3 (emphasis in original).

¹¹ See, e.g., Bruno Simma, “From Bilateralism to Community Interests in International Law” (1994) 250 *Collected Courses of the Hague Academy* 229. See also Emmanuelle Jouannet, expressing a related sentiment in “Universalism and Imperialism: The True–False Paradox of International Law?” (2007) 18 *European Journal of International Law* 379.

¹² See, e.g., Christine Chinkin, “The United Nations Decade for the Elimination of Poverty: What Role for International Law?” (2001) 54 *Current Legal Problems* 553; see also John Dugard, “The Future of International Law: A Human Rights Perspective – with Some Comments on the Leiden School of International Law” (2007) 20 *Leiden Journal of International Law* 729.

¹³ Abdul Koroma, “Solidarity: Evidence of an Emerging International Legal Principle,” in Holga Hestermeyer et al. (eds.), *Co-existence, Cooperation and Solidarity: Liber Amicorum Rüdiger Wolfrum* (Martinus Nijhoff, 2012), 103.

1.2 THE CONTENT OF SDG 1 IN THE CONTEXT OF THE OTHER SDGS

1.2.1 *The Content of SDG 1*

The language of SDG 1 itself reveals a strong ambition. It is to “[e]nd poverty in *all its forms everywhere*.”¹⁴ The absolutist ambition of the goal extends to both the type of poverty to be eradicated (in all its forms) and the geographical scope (everywhere). Achieving the geographic element of this goal – “everywhere” – will require solidarity. Well-resourced developed states may be able to address, unilaterally and without external assistance, the poverty of their own populations. However, without the cooperative assistance inherent in the concept of solidarity, poorer states will not be able to pull their populations out of poverty.

This lofty and ambitious goal is to be measured against a set of five targets to be achieved by 2030. These targets do not exhibit the same absolute pretense of the overall objective of SDG 1. Target 1.1 provides an example. It aims to “eradicate extreme poverty for all people everywhere” by 2030. In some respects, there is an absolutism about the ambition: it targets “poverty for all people” and “everywhere.” Moreover, the target is not to reduce poverty but, rather, to eradicate it, which is another indication of an absolutist ambition. Yet, the target lacks the absolutist pretense of SDG 1, since it is only “*extreme* poverty” and not all poverty that is targeted. Moreover, the benchmark for what constitutes “extreme poverty” is US \$1.25 a day, which is even less ambitious than the US \$1.90 used by the World Bank to indicate extreme poverty. Target 1.2 also reveals an absolutist ambition in that it is directed at “poverty in *all its dimensions*,” not only extreme poverty. Yet this apparently absolutist ambition is relative, since it is to be determined “according to national definitions” and only requires that the proportion of those living in poverty be reduced by at least half.

Pointing out the low ambition reflected in the targets of SDG 1 is not a criticism but, rather, a statement of fact and a recognition by the drafters that the ultimate objective of poverty eradication will likely not be met by 2030 and that, by any standard, there will remain people living in poverty in 2030. Other targets of SDG 1 seek to address the relatively low ambitions in targets 1.1 and 1.2 by addressing the living conditions of those who, in 2030, will remain in poverty – those left behind. Target 1.3, for example, requires that there should be “social protection systems and measures for all” and that, by 2030, states should have achieved “substantial coverage of the poor and the vulnerable.” This target, which is intended to cover those left behind, itself lacks an absolutist ambition, leaving the determination of the appropriate levels of social protection and coverage up to national standards. Targets 1.4 and 1.5 are similarly geared toward enhancing the lives of those who may have

¹⁴ Emphasis added.

been left behind due to the low levels of ambition of poverty reduction in targets 1.1 and 1.2.

Developed states may well be able to meet the targets under SDG 1 for their own populations. They may even be able to meet the overall, absolutist, objective of SDG 1. This situation, however, creates the risk that the poor in developing states, particularly in the least developing states, are going to be left behind. To ensure that developing states are not left behind requires shared responsibility in uplifting the poor. Targets 1.a and 1.b are directed at this need for solidarity. Target 1.a recognizes the need to “[e]nsure significant mobilization of resources,” and the need for “enhanced development cooperation” in order to ensure that the poor in developing countries are not left behind. Similarly, the recognition of the need for action and “sound policy frameworks” not only at the national level but also at “regional and international levels” is indicative of a pursuit for solidarity. This need for collective action, to some extent, is also reflected in SDG 17, Partnerships for the Goals, on the means of implementation. SDG 17 is peppered with references to collective action to finance the achievement of the SDGs, including SDG 1. Nonetheless, SDG 17, and its individual targets, is still crafted in a way that falls short of solidarity: The poor in developing countries are the responsibility of developing states, and developed states will assist to the extent that they choose to. Section 1.3 of this chapter illustrates that this philosophy is largely consistent with the general framework of international law.

1.2.2 SDG 1 in the Context of Other SDGs

While SDG 1 specifically addresses poverty eradication, this theme also runs throughout the SDGs. It may even be said that the SDGs are about poverty eradication. The SDGs are, after all, a continuation of the 2000 Millennium Development Goals (MDGs),¹⁵ which were more explicitly centered on poverty alleviation and securing a life of dignity for the most disadvantaged in our society.¹⁶ Then, Secretary-General Ban Ki-Moon’s opening words in the foreword to the 2015 *Millennium Development Goal Report* are reflective of the centrality of poverty eradication to the MDGs. He characterized the MDGs as “the most successful *anti-poverty* movement in history,” reflecting world leaders’ commitment to “spare

¹⁵ The relationship between the MDGs and the SDGs has been reflected in different ways in the literature. For a more positive outlook, see Nina Weitz, Måns Nilsson & Marion Davis, “A Nexus Approach to the Post-2015 Agenda: Formulating Integrated Water, Energy and Food SDGs” (2014) 34 *School of Advanced International Studies Review of International Affairs* 37, 37; see also Liu et al., n. 5, 70. For a more somber perspective, see Stephen McCloskey, “From MDGs to SDGs: We Need a Critical Awakening to Succeed” (2015) 12 *Policy and Practice: A Development Education Review* 186, 186.

¹⁶ See *UN Millennium Declaration*, UN Doc. A/Res/55/2, 8 September 2000, para. 11.

no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty.”¹⁷

The MDGs were developed as part of the evolution of sustainable development, and it is no surprise that the eradication of poverty, which is at the center of sustainable development,¹⁸ was interwoven into the fabric of the MDGs.¹⁹ This theme is carried forward in the 2030 Agenda for Sustainable Development, which was presented as “a plan of action for people, planet and prosperity.”²⁰ The goals underlying Agenda 2030 are said to be “integrated and indivisible” and “balance the three dimensions of sustainable development: the economic, social and environmental.”²¹ The fact that sustainable development underpins Agenda 2030, and therefore the SDGs, is testament to the idea that poverty eradication constitutes the leitmotif for the SDGs.²² According to Agenda 2030, the goals are “people-centred” and “transformative.”²³

Of course, the SDGs address more than poverty eradication. More so than the MDGs, the SDGs are rooted explicitly in the law and policy of sustainable development, which is concerned with more than poverty eradication. Yet, poverty eradication is a “core philosophy” of sustainable development.²⁴ Describing the importance of poverty eradication under the SDGs, Liu Qian-Qian, Yu Man, and Wang Xiao-Lin express the view that “[e]nding extreme poverty and achieving sustainable development by 2030 is the summary of the SDGs, reflecting the significance of poverty reduction in the issue of development.”²⁵

That the eradication of poverty is the leitmotif that permeates the SDGs can be seen in individual goals. SDG 2, Zero Hunger, for example, concerns ending hunger, ensuring food security, and promoting improved nutrition. There is an inextricable connection between hunger and poverty, given that it is the poor that

¹⁷ See *Millennium Development Goals Report*, 2015, 3 (emphasis added).

¹⁸ World Commission on Environment and Development, *Our Common Future* (World Commission on Environment and Development, 1987), 43, in which the Brundtland Commission’s report described the definition of sustainable development as containing two elements, the first being that the essential needs of the world’s poor must be given priority.

¹⁹ Dire Tladi, *Sustainable Development in International Law: An Analysis of Key-Enviro Economic Instruments* (Pretoria University Law Press [PULP], 2007), 31.

²⁰ *Transforming Our World*, n. 1, preamble.

²¹ *Id.*

²² For example, the first recital of the preamble states “that eradicating poverty in all its forms and dimensions, including extreme poverty, is the greatest global challenge and an indispensable requirement for sustainable development.” In the second recital, world leaders committed to “free[ing] the human race from the tyranny of poverty.”

²³ *Id.*, para. 2.

²⁴ Liu et al., n. 5, 68; see also the 2002 Johannesburg Declaration on Sustainable Development, para. 11, in which poverty eradication is described as both an objective and an essential requirement for sustainable development. See also Tladi, n. 19.

²⁵ Liu et al., n. 5, 69.

suffer from hunger, lack of food security, and malnutrition.²⁶ Therefore, addressing poverty will contribute to addressing hunger, food security, and malnutrition. Similarly, the eradication of poverty will contribute to healthy lives and the promotion of the well-being of people, which is the subject of SDG 3, Good Health and Well-Being. Moreover, education, addressed in SDG 4, Quality Education, is an important factor for addressing poverty. The cause-and-effect relationship between education and poverty is generally well recognized.²⁷ There is an almost obvious connection between SDG 1 and other SDGs – for example, SDG 6, Clean Water and Sanitation; SDG 7, Affordable and Clean Energy; SDG 8, Decent Work and Economic Growth; SDG 9, Industry, Innovation and Infrastructure; and SDG 10, Reduced Inequalities.

Even those SDGs whose connection with poverty eradication may not be so obvious connect to the aim of SDG 1. For example, SDG 14, Life below Water, has as its primary objective conservation. Yet, the pursuit of “sustainable use” also concerns “access for small-scale artisanal fishers to marine resources and markets,” which impacts poverty.²⁸ Given the centrality of poverty eradication for sustainable development, the permeation of the goal of eradicating poverty through the SDGs is understandable.

1.3 POSITIONING SDG 1 IN INTERNATIONAL LAW

1.3.1 *Is International Law Geared toward Achieving SDG 1?*

Whether the nature of international law is geared toward achieving SDG 1 depends in large part on whether it can exhibit a sufficient degree of solidarity to ensure that those in the poorest states are not left behind in the drive to eradicate poverty. While international law traditionally was seen as a system driven by the national interests of states, and shaped by their bargaining power,²⁹ there is a growing consensus that this traditional international law is giving way to a more value-based, community-oriented system of law, and the debate, if there is one, concerns the rate of the shift

²⁶ See generally Ngcimezile Mbano-Mweso, “Poverty, Women and the Human Right to Water for Growing Food,” in Ebenezer Durojaye and Gladys Mirugi-Mukundi (eds.), *Exploring the Link between Poverty and Human Rights in Africa* (PULP, 2020).

²⁷ Ebenezer Durojaye and Gladys Mirugi-Mukundi, “General Introduction to Poverty and Human Rights,” in Durojaye and Mirugi-Mukundi, n. 26, 3.

²⁸ See target 14.b; see also generally Henrik Österblom, Colette Wabnitz and Dire Tladi, *Blue Paper 13: Towards Ocean Equity – A Paper Commissioned by the High-Level Panel on Ocean Economy*, 2019, 5ff.

²⁹ See Simma, n. 11, 229–33; Philip Allot, *Eunomia: New Order for a New World* (Oxford University Press, 1990), 324; David Held, “The Changing Structure of International Law: Sovereignty Transformed?,” in David Held & Anthony McGrew (eds.), *The Global Transformations Reader: An Introduction to the Globalization Debate*, 2nd ed. (Polity, 2003), 162; Antonio Augusto Cançado Trindade, “International Law for Humankind: Towards a New *Jus Gentium*” (2005) 316 *Recueil des Cours de l’Académie d’Droit International de la Haye* 21.

rather than the fact of the change. Bruno Simma has observed that international law is “overcoming the legal and moral deficiencies of” the bilateralist international legal system and “maturing into a much more socially conscious legal order.”³⁰ John Dugard has described this emerging international law as being premised on “a brave new world” in which “state sovereignty is no longer a factor . . . in which the community of personkind is governed by the rule of law . . . in which peace and human rights are secure and in which the energy of personkind is addressed toward resolving poverty and inequality.”³¹ This brave new world, described by Dugard, suggests a system of international law based on solidarity. Solidarity in international law, according to Abdul Koroma, “represents more than a general notion of ‘neighbourliness’ but in fact an emerging structural principle which in many cases creates negative obligations on States not to engage in certain activities, and in an increasing number of contexts establishes concrete duties on States to carry out certain measures for the common good.”³²

While there is some consensus in scholarly writings about this new, emerging international law, it is not apparent that the enthusiasm of scholars is matched by the practice of states and the actual state of international law.³³ The discussion of the areas of international law relevant to poverty eradication illustrates this state of affairs.

1.3.2 *Areas of International Law Relevant to Poverty Eradication*

In this subsection, the areas of international law most relevant for poverty eradication – namely, human rights law and economic law – are addressed. For both these areas of international law, this chapter will assess the extent to which they are geared to contribute to the achievement of SDG 1, from the perspectives of both ambition and solidarity.

1.3.2.1 Human Rights Law

The area of international law that is most relevant to the eradication of poverty is human rights law, given that, at its core, it is about the human condition.³⁴ Poverty is also about the human condition. The question that flows from this is which human

³⁰ Simma, n. 11, 234.

³¹ See Dugard, n. 12.

³² Koroma, n. 13, 103.

³³ I have recently suggested that the rhetoric and enthusiasm in the academic literature have not been matched by the practice of states. See Dire Tladi, “Populism’s Attack on Multilateralism and International Law: Much Ado about Nothing” (2020) 19 *Chinese Journal of International Law* 369.

³⁴ For a discussion, see Jack Donnelly, *Universal Human Rights in Theory and Practice* (Cornell University Press, 2003), 13ff.

rights are relevant for the eradication of poverty.³⁵ While the argument can be made that many – possibly all – human rights have some relevance to poverty,³⁶ socio-economic rights are most closely associated with the fight against poverty.³⁷ Socioeconomic rights are established precisely to ensure the protection of “the poor and otherwise marginalised” in society.³⁸ The purpose of socioeconomic rights is to ensure that basic needs are met, and it is the poor whose basic needs are often not met.³⁹ Onyeka Osuji and Ugochukwu Obibuaku have noted that socioeconomic rights “can serve as a powerful tool for reducing and eliminating poverty.”⁴⁰

A survey of the catalog of rights in the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) reveals that they directly concern the fight against poverty and are of eminent relevance for the attainment of other SDGs. While the ICESCR and other relevant instruments, as such, do not provide a right to be free of poverty or an obligation to alleviate poverty, the fulfillment of socio-economic rights together will ensure the eradication of poverty.⁴¹ The universal achievement of the rights to work, just and equitable conditions of work, social security, an adequate standard of living, the highest attainable standard of health, and education would enhance the prospects of achieving SDG 1.⁴² For example, unemployment, which is addressed by the work-related rights, is one of the major causes of poverty; high health standards are often unattainable for the poor; and education is one of the key tools for addressing poverty.

The recognition of socioeconomic rights in international law, then, has the potential to play an important role in poverty eradication. However, that potential is limited by several factors. First, treaties, including those providing socioeconomic

³⁵ See Chinkin, n. 12, 556; see also Jumoke Oduwale, “Global Poverty and the Right to Development: An African Perspective on Maklem’s *The Sovereignty of Human Rights*” (2017) 15 *Jerusalem Review of Legal Studies* 98, 99 (“Thus, international human rights are envisioned as moral instruments that protect universal features of what it means to be a human being”); John C. Mubangizi & Betty Mubangizi, “Poverty, Human Rights Law and Socio-economic Realities in South Africa” (2005) 22 *Development Southern Africa* 277, 282; see generally David Bilchitz, *Fundamental Rights: Justification and Enforcement of Socio-economic Rights* (Oxford University Press, 2007), 1.

³⁶ See Durojaye & Mirugi-Mukundi, n. 26.

³⁷ See generally Sibonile Khoza, “Promoting Economic, Social and Cultural Rights in Africa: The African Commission Holds a Seminar in Pretoria” (2004) 4 *African Human Rights Law Journal* 334.

³⁸ See Danie Brand, “Introduction to the Socio-economic Rights in the South Africa,” in Danie Brand & Christof Heyns (eds.), *Socio-economic Rights in South Africa* (PULP, 2005), 2.

³⁹ Onyeka K. Osuji & Ugochukwu L. Obibuaku, “Rights and Corporate Social Responsibility: Competing or Complementary Approaches to Poverty Reduction and Socioeconomic Rights?” (2016) 126 *Journal of Business Ethics* 329, 331.

⁴⁰ *Id.*, 333.

⁴¹ Chinkin, n. 12, 559. Other relevant instruments include 1989 Convention on the Rights of the Child and the 1981 African Charter on Human and Peoples’ Rights.

⁴² ICESCR, respectively arts. 6, 9, 11, 12, 13.

rights, apply only to state parties.⁴³ Second, treaty provisions on socioeconomic rights are generally couched not as immediately and absolutely enforceable rights but, rather, as obligations that a state is to progressively realize and subject to resource constraints of each individual state.⁴⁴ There is a third, and potentially more crippling constraint to the potential of socioeconomic rights to impact poverty. Socioeconomic rights are couched as rights owed by a state to the population in its territory.⁴⁵ While there has been some movement toward the extraterritorial application of human rights, this has largely been limited to those instances where the state in question exercises some control or jurisdiction over the activities or actors in another state.⁴⁶

Indeed, with respect to socioeconomic rights, the International Court of Justice determined that the ICESCR “guarantees rights which are essentially territorial,” noting that it may also apply to a state in respect of territories “over which that state exercises territorial jurisdiction.”⁴⁷ The problem with this general construction is that it places the burden of dealing with the most serious cases of poverty – those in developing states – on precisely those states that, due to their economic situation and developmental state, are not in a position to allocate the necessary resources to effectively addressing poverty. It undermines the idea of solidarity implied by the transition of international law from bilateralism to a system based on community interests.⁴⁸ To truly enable socioeconomic rights to play a meaningful role in the eradication of poverty, relevant human rights instruments should be interpreted to establish the idea that the international community as a whole is responsible for ensuring that such rights are enjoyed by all.

While socioeconomic rights potentially provide the most direct avenue for addressing poverty, other human rights are also relevant. Poverty, for example, affects the dignity of people, meaning that for those living in poverty the right to dignity cannot be realized. Similarly, a broad interpretation of the right to life would

⁴³ While it may be argued that socioeconomic rights, or some of them, are customary international law, this is not a generally accepted proposition. Cf. Chinkin, n. 12, 558, who states that these are rights established under the UN Charter and which, therefore, states cannot disown even if not provided for in a particular treaty.

⁴⁴ ICESCR, art. 2(1); see, e.g. Lilian Chenwi, “Unpacking ‘Progressive Realisation’, Its Relation to Resources, Minimum Core and Reasonableness, and Some Methodological Considerations for Assessing Compliance” (2013) 46 *De Jure* 742.

⁴⁵ See Elif Askin, “Economic and Social Rights, Extraterritorial Application,” in *Max Planck Encyclopedia of Public International Law* (Oxford University Press, 2010).

⁴⁶ *Id.* In regard to civil and political rights, see *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports (2004) 136, para. 109; see also IACtHR, *State Obligations in Relation to the Environment in Relation in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity: Interpretation and Scope of Articles 1(1) and 2 of the American Convention on Human Rights*, Advisory Opinion OC-23/17, November 2017, paras. 73ff.

⁴⁷ *Legal Consequences of a Wall*, n. 46, para. 112.

⁴⁸ See n. 31 and accompanying text, quoting Dugard’s reference to “the brave new world of international law.”

establish a link between the protection of life and the “chronic and yet pervasive threats to life” flowing from poverty.⁴⁹ Moreover, as Christine Chinkin points out, the attainment of socioeconomic rights provides the basis for the enjoyment of all civil and political rights.⁵⁰ She notes that the denial of civil and political rights is a daily occurrence for the poor.⁵¹ Chinkin’s approach, arguing against the “categorisation of rights” and calling for “mutually reinforcing interpretation of both sets of rights directed toward poverty reduction,” is consistent with the view that considers the right to development to be the unifier between socioeconomic and civil and political rights. Consistent with the broad definition of poverty adopted by the Committee on Economic, Social and Cultural Rights,⁵² it affirms the idea of the indivisibility of human rights.⁵³ In this context, the right to development has been characterized as “a composite right of all universal rights.”⁵⁴ In essence, it is a right concerned with improving the human condition and the overall well-being of humans, which is the very purpose of the pursuit of the eradication of poverty.⁵⁵

The ability of human rights law to contribute to poverty eradication thus is limited by a number of factors. First, the ambition of human rights law is especially low in relation to those rights most closely associated with the alleviation of poverty – that is, socioeconomic rights. These rights are subject to several qualifiers that reduce their overall effectiveness. Second, and perhaps more importantly, the solidarity that is central to the brave new communitarian-based international law is not reflected in the architecture of human rights law. States are responsible only for populations in their own territories – the “me for mine and you for yours” philosophy. Without solidarity, which implies the joint responsibility of states to address poverty everywhere, neither the targets nor the overall objective of SDG 1 can be met for developing states. Given the low ambition and lack of solidarity evidenced in socioeconomic rights, SDG 1, together with its targets, reflects a higher level of ambition. Yet the SDGs, being mere policy objectives, do not establish legal obligations and cannot, on their own, enhance the content of international law. The relatively higher level of ambition, together with some commitment to solidarity reflected in SDG 1, could be used to interpret socioeconomic rights, both to enhance their ambition in terms of content and to promote broader extraterritoriality in order to enhance solidarity.

⁴⁹ See African Commission on Human and Peoples’ Rights, *General Comment 3 on the African Charter on Human and Peoples: The Right to Life (Article 4)*, 2015, para. 42.

⁵⁰ Chinkin, n. 12, 560.

⁵¹ *Id.*

⁵² See CESCR, n. 4, para. 8.

⁵³ Lansé Minkler & Shawna Sweeney, “On the Indivisibility and Interdependence of Basic Rights in Developing Countries” (2011) 33 *Human Rights Quarterly* 351.

⁵⁴ See Arjun Sengupta, “On Theory and Practice of the Right to Development” (2002) 24 *Human Rights Quarterly* 837, 870.

⁵⁵ Tladi, n. 19, 68, noting that there are as many definitions of international economic law “as there are authors on the subject.”

1.3.2.2 International Economic Law

International economic law, another area of international law with potential relevance for the eradication of poverty, includes trade law, investment law, the law relating to financial institutions, and intellectual property law.⁵⁶ In general, international economic law is geared toward wealth creation, which can impact poverty.⁵⁷ There is therefore an obvious relationship, at least potentially, between international economic law and poverty alleviation. This subsection addresses trade law and the law related to international financial institutions.

The pursuit of free trade – the basic objective of international trade law – has often been characterized as an important tool for poverty alleviation and eradication.⁵⁸ The preamble of the 1994 Agreement Establishing the World Trade Organization (WTO Agreement) sets objectives that are closely related to poverty alleviation. It determines that activities under the World Trade Organization (WTO) should be “conducted with a view to raising standards of living” and “ensuring full employment.” The idea is that, through income generation, free trade improves and enhances the livelihood of persons.⁵⁹ Fernando Tesón and Jonathan Klick make a rather strong claim concerning the relationship between poverty alleviation and free trade. First, they state, perhaps optimistically, that “virtually everyone agrees” that alleviating poverty “should be a priority of international law.”⁶⁰ Second, based on the virtues of trade as a tool for economic growth,

⁵⁶ See Makane Moïse Mbengue & Apollin Koagne Zouapet, “Ending the Splendid Isolation . . . *Jus Cogens* and International Economic Law,” in Dire Tladi (ed.), *Peremptory Norms of General International Law: Disquisitions and Disputations* (Brill, 2021). On intellectual property law, see, in particular, chapters 3, 7, 9, 10 in this volume.

⁵⁷ WTO, *Background Paper: The WTO’s 2 Year Strategy Comes to Fruition*, January 2002, www.wto.org/english/news_e/news01_e/wto2year_strategy_17dec01.doc (“complete liberalisation of merchandise trade and elimination of subsidies could add US\$1.5 trillion to developing country incomes. And reshaping the world’s trading system and reducing barriers to trade in goods could reduce the number of poor in developing countries by 300 million by 2015 and boost the global income by as much as \$2.8 trillion over the next ten years”).

⁵⁸ See, e.g., generally, World Bank Group and WTO, *The Role of Trade in Ending Poverty*, 2015. More cautiously, see Chios Carmody, Frank Garcia & John Linarelli, “Introduction,” in Chios Carmody, Frank Garcia & John Linarelli (eds.), *Global Justice and International Economic Law: Opportunities and Prospects* (Cambridge University Press, 2014); Caroline Dommen, “Safeguarding the Legitimacy of the Multilateral Trading System: The Role of Human Rights Law,” in Frederick M. Abott, Christine Breining-Kaufmann, & Thomas Cottier (eds.), *International Trade and Human Rights: Foundations and Conceptual Issues* (University of Michigan Press, 2006), 122–23.

⁵⁹ World Bank Group and WTO, n. 58, 7; see also Michael Moore, “The Multilateral Trading System in Support of Africa-led and Africa-owned Development” (Paper presented at UN Economic and Social Council, High Level Policy Dialogue, United Nations, 16 July 2001), www.wto.org/english/news_e/spmm_e/spmm07_e.htm.

⁶⁰ Fernando Tesón & Jonathan Klick, “Global Justice and Trade,” in Carmody, Garcia, & Linarelli, n. 58, 217, 217.

they claim that “free trade is *required*” for this purpose.⁶¹ One commentator has remarked that the “view that free trade is good for the poor is so widely accepted that it is hard to get a word in edge-wise.”⁶²

It is not possible here to test empirically the claims that trade liberalization contributes to poverty eradication. The claim that free trade alleviates poverty, however, is contested and has been the subject of severe criticism.⁶³ Marjorie Cohn, for example, has noted that the “WTO’s *raison d’être* is the elevation of property interests above the protection of human rights.”⁶⁴ She disputes the idea that wealth created through globalization has trickled down and asserts that the “gap between rich and poor has widened geometrically *because of* the global trading system.”⁶⁵ In a report to the Human Rights Commission – the predecessor to the Human Rights Council – Joseph Oloka-Onyango and Deepika Udagama described the WTO rules as “grossly unfair and even prejudiced” and a “veritable nightmare” for “certain sectors of humanity” – in particular, those from developing countries.⁶⁶ Equally scathing is Barbara Stark, who notes that, due to neoliberal economic policies, including free trade rules, the “chasm between the rich and the poor has become unfathomable.”⁶⁷ Indeed, even some who take a somewhat more sympathetic view of free trade note that there are “good reasons to be sceptical of the claim that free trade is always the best way to reduce poverty.”⁶⁸

The activities of international financial institutions also have been identified as being central to economic growth and, following the logic that economic growth leads to poverty reduction, as contributing to the eradication of poverty. These institutions, even more so than trade institutions, are regarded as the most powerful agents of economic development.⁶⁹ Loans provided by development banks, such as the International Bank for Reconstruction and Development and the International

⁶¹ *Id.* (emphasis in original).

⁶² Nicole Hassoun, “Free Trade, Poverty and the Environment” (2008) 22 *Public Affairs Quarterly* 353, 353.

⁶³ In general terms, the current author has argued that tools designed to enhance economic growth do not necessarily lead to poverty reduction. See Tladi, n. 19, 81–82.

⁶⁴ Marjorie Cohn, “The World Trade Organisation: Elevating Property Interests above Human Rights” (2001) 29 *Georgia Journal of International and Comparative Law* 427, 427; see also Nii Lante Wallace-Bruce, “Global Free Trade and Sustainable Development: Two Steps Forward in the WTO?” (2002) 35 *Comparative and International Law Journal of Southern Africa* 236, 237.

⁶⁵ Cohn, n. 64, 428.

⁶⁶ Joseph Oloka-Onyango & Deepika Udagama, *The Realisation of Economic, Social and Cultural Rights: Globalisation and Its Impact on the Full Enjoyment of Human Rights*, preliminary report to the Commission on Human Rights, Doc. E/CN.4/Sub.2/2000/13, 15 June 2000, paras. 13–15.

⁶⁷ Barbara Stark, “Jam Tomorrow: A Critique of International Economic Law,” in Carmody, Garcia & Linarelli, n. 58, 262.

⁶⁸ Hassoun, n. 62, 369.

⁶⁹ Thomas Stubbs & Alexander Kentikelenis, “International Financial Institutions and Human Rights: Implications for Public Health” (2017) 38 *Public Health Reviews* 27, 28.

Finance Corporation (both part of the World Bank Group), for infrastructure development, and the International Monetary Fund's (IMF) stabilization lending are designed to promote economic growth. These loans, in turn, can have a positive impact on human rights.⁷⁰ International financial institutions, at least on paper, are geared toward the achievement of SDG 1.⁷¹ The World Bank has adopted what it has referred to as the twin objectives – namely, ending extreme poverty and boosting prosperity.⁷² Moreover, the World Bank's 1945 Articles of Agreement, for example, seek to encourage investment, inter alia, to assist “in raising productivity, the standard of living and conditions of labour” in member states.⁷³ Similarly, while earlier the IMF characterized itself as a financier and monetary agency and not as a development agency, today it embraces its role in addressing poverty.⁷⁴

While international financial institutions have as a stated objective poverty eradication, the activities of these institutions have often been criticized as harming and not helping the poor.⁷⁵ For example, it has been argued that international financial institutions work to the benefit not of the poor countries that are their clients but, rather, of the rich countries, which are their major shareholders.⁷⁶ The independent expert on the promotion of a democratic and equitable order has noted that some of the policies of international financial institutions “have resulted in the erosion of the enabling human rights environment in some countries,” including by promoting “policies that weaken the public sector and hinder states in the fulfilment of their

⁷⁰ Adam Macbeth, “A Right by Any Other Name: The Evasive Engagement of International Financial Institutions with Human Rights” (2008–9) 40 *George Washington International Law Review* 1101.

⁷¹ See World Bank Group, *A Measured Approach to Ending Poverty and Boosting Shared Prosperity: Concepts, Data and the Twin Goals* (World Bank, 2015), 6–12.

⁷² *Id.*

⁷³ See, e.g., 1945 Articles of Agreement of the International Bank for Reconstruction and Development, as amended, art. 1.

⁷⁴ François Gianviti, “Economic, Social, and Cultural Human Rights and the International Monetary Fund,” in Philip Alston (ed.), *Non-State Actors and Human Rights* (Oxford University Press, 2005), 131, 135.

⁷⁵ See generally Paul Clements, “Multilateral Development Banks and the International Monetary Fund,” in Carmody, Garcia & Linaralli, n. 58; Bruce Rich, *Mortgaging the Earth: The World Bank, Environmental Impoverishment and the Crisis of Development* (Routledge, 1994); Michel Chossudovsky, *The Globalisation of Poverty: The Impacts of IMF and World Bank Reforms* (Zed Books, 1997); Korinna Horta, “Boundaries in the Field of Human Rights: Rhetoric and Reality: Human Rights and the World Bank” (2002) 15 *Harvard Human Rights Journal* 227; Christiana Ochoa, “Advancing the Language of Human Rights in a Global Economic Order: An Analysis of Discourse” (2003) 23 *Boston College Third World Law Journal* 57.

⁷⁶ See generally Anthony Anghie, “International Financial Institutions,” in Christian Reus-Smit (ed.), *The Politics of International Law* (Cambridge University Press, 2004), 14. See the current author's criticism of the two main international financial institutions. Dire Tladi, “International Law for Sustainable Development: Sombre Reflections on World Bank Efforts” (2004) 29 *South African Yearbook of International Law* 165; Dire Tladi, “IMF Conditionality, Debt and Poverty: Towards a ‘Strong’ Anthropocentric Model of Sustainable Development” (2004) 16 *South African Mercantile Law Journal* 31.

human rights obligations” – in particular, socioeconomic rights.⁷⁷ Speaking more broadly about international financial institutions, Thomas Stubbs and Alexander Kentikelenis express the view that these institutions often have the effect of “reducing national policy and undermining national development agendas” and “have implications for the enjoyment of human rights” – in particular, socioeconomic rights.⁷⁸ Much of the criticism against the international financial institutions have been directed at the conditionalities imposed on developing countries when accessing loans.⁷⁹ These conditionalities aim at economic austerity, require reduction in social spending, and target those social services that are most essential for the poor. An empirical review of conditionalities imposed by international financial institutions concluded that they have been a dismal failure.⁸⁰

Since the 2000s and in response to scathing criticism, international financial institutions such as the World Bank and the IMF have explicitly adopted poverty reduction as an objective. Yet it has been suggested that this has been a little more than a façade.⁸¹ For example, the IMF’s Poverty Reduction and Growth Facility, which was a response to the criticism of structural adjustment programs, has been described “as the new name for structural adjustment loans.”⁸² Thus, notwithstanding the declared turn in official posture, international financial institutions continue to be criticized for policies that, instead of contributing to eradicating poverty, are harming the poor.⁸³ Indeed, while international financial institutions have embraced, on paper, poverty reduction as a key objective, they continue to reject the idea that international human rights – in particular, those human rights contained in the ICESCR – could apply to them. Philip Alston, then special rapporteur

⁷⁷ *Report of the Independent Expert on the Promotion of a Democratic and Equitable International Order (Alfred de Zayas)*, Doc. A/HRC/36/40, 20 July 2017, para. 3; see also Diane Desierto, “Lingering Asymmetries in SDGs and Human Rights: How Accountable Are International Financial Institutions in the International Accountability Network,” *EJIL: Talk!*, 2 February 2019.

⁷⁸ Stubbs & Kentikelenis, n. 69, 28; see also Michel Chossudovsky, *The Globalisation of Poverty and the New World Order* (Global Research, 2003).

⁷⁹ See, e.g., Axel Drehel, “A Public Choice of IMF and World Bank Lending and Conditionality” (2004) 119 *Public Choice* 445; see also B.S. Chimni, “Critical Theory and International Economic Law: A Third World Approach to International Law (TWAAIL) Perspective,” in John Linarelli (ed.), *Research Handbook on Global Justice and International Economic Law* (EE, 2013), 261.

⁸⁰ Walden Bello, Shea Cunningham & Bill Rau, *Dark Victory: The United States and Global Poverty*, 2nd ed. (Pluto Press, 1999), 3.

⁸¹ See *Report of the Special Rapporteur on Extreme Poverty and Human Rights (Philip Alston)*, Doc. A/HRC/38/33, 8 May 2018, para. 7. The report refers to a study that assesses IMF practice both in the era of the Washington Consensus and in the post-reform era. Alexander E. Kentikelenis, Thomas Stubbs & Lawrence King, “IMF Conditionality and Development Policy Space, 1985–2014” (2016) 23 *Review of International Political Economy* 543.

⁸² William Easterly, *The White Man’s Burden: Why the West’s Efforts to Aid the Rest Have Done So Much Ill and So Little Good* (Penguin Press, 2006), 191; see also Tladi, “IMF Conditionality,” n. 76.

⁸³ See, e.g., Clements, n. 75, 121.

on extreme poverty, after interacting with officials of the IMF, summarized the fund's position:

[T]he International Covenant on Economic, Social and Cultural Rights is not applicable to IMF; its provisions have not attained customary international law status that would make them applicable independently of the Covenant; IMF promotes economic and social rights indirectly by contributing to conducive economic conditions; and IMF cannot promote human rights directly without contravening the Articles of Agreement. The Deputy General Counsel of IMF informed the Special Rapporteur that this position remained unchanged. He reiterated that it was not bound by human rights norms, "except perhaps in cases of genocide."⁸⁴

The conscious integration of human rights, especially socioeconomic rights, into international economic law would make it possible for international economic law to contribute to the objectives of SDG 1. The exceptions to free trade – for example, in article XX of the 1947 General Agreement on Tariffs and Trade – could be interpreted liberally to permit trade restrictions in order to give effect to the rights in the ICESCR. This would be consistent with the customary international law rules of interpretation.⁸⁵ Both the object and purpose of the treaty ("raising standards of living" in the preamble of the WTO Agreement) and the principle of systemic integration in article 31(3)(c) of the 1969 Vienna Convention on the Law of Treaties (VCLT): could be used to integrate socio-economic rights into the law of the WTO. The same argument applies to international financial institutions. SDG 1, in its own right and as a means for an enhanced interpretation of human rights instruments, as suggested in Section 1.3.2.1, should be considered as a pathway for international economic law to contribute meaningfully to poverty eradication.

1.4 POSITIONING SDG 1 IN THE INTERNATIONAL INSTITUTIONAL CONTEXT

1.4.1 *Human Rights Institutions*

This subsection addresses the role of institutional settings in achieving SDG 1. The increase in the number and growth in influence of international organizations under international law justifies thinking about institutional frameworks in relation to the SDGs.⁸⁶ Nonetheless, the role of institutional rules should not be overstated. Institutional settings and frameworks, no matter how well conceived and applied, cannot lead to eradicating or reducing poverty without an appropriate set of

⁸⁴ *Report on Extreme Poverty*, n. 81, para. 16.

⁸⁵ VCLT, art. 31.

⁸⁶ See, e.g., Chittharanjan Felix Amerasinghe, *Principles of the Institutional Law of International Organizations*, 2nd ed. (Cambridge University Press, 2005), 4, 6; see also David Zaring, "International Institutional Performance in Crisis" (2010) 10 *Chicago Journal of International Law* 475, 476.

substantive rules and normative framework. One of the most common criticisms of international financial institutions is their lack of accountability mechanisms.⁸⁷ Yet the usefulness of any accountability mechanism remains dependent on the normative framework against which the institutions are to be held accountable. At best, the institutional settings can facilitate the effective implementation and application of the rules designed to eradicate poverty where these rules themselves are effective. In other words, institutions are only as useful as the norms they are charged with giving effect to. It is in this context that the institutions charged with developing the rules discussed in Section 1.3 are considered.

The first area of international law identified as being relevant for the eradication of poverty is human rights law. The Human Rights Council, a subsidiary organ of the UN General Assembly, has overall responsibility for “promoting universal respect for the protection of all human rights and fundamental freedoms.”⁸⁸ Under its constitutive resolution, the council is responsible for addressing “situations of violations of human rights” and making “recommendations thereon,”⁸⁹ and it is charged with playing a coordinating role within the UN system.⁹⁰ It is serviced by the Office of the High Commissioner for Human Rights, which has a broad mandate for the promotion and protection of human rights.⁹¹ The Human Rights Council performs its functions through a number of subsidiary organs, some of which are engaged in processes that may contribute to the achievement of SDG 1. The Working Group on the Right to Development is a prime example. As described in Section 1.3.2.1, the right to development is the composite right of all universal rights and concerned with improving the overall well-being of humans, which is the very essence of SDG 1. The working group itself was established in 1998 with the mandate to promote the right to development. In 2018, the Human Rights Council decided that the Working Group on the Right to Development should “commence the discussion to elaborate a draft legally binding instrument on the right to development.”⁹² Of course, whether the instrument to be negotiated will have an impact depends on its content – in particular, the levels of ambitions and solidarity exhibited and whether it will be widely ratified.⁹³

Special procedures refer to independent human rights experts who report on specific human rights issues and advise the Human Rights Council. Some special

⁸⁷ See, e.g., Smita Narula, “The Right to Food: Holding Global Actors Accountable” (2006) 44 *Columbia Journal of Transnational Law* 691.

⁸⁸ See UNGA Resolution A/RES/60/251, 15 March 2006, para. 2, which established the Human Rights Council.

⁸⁹ *Id.*, para. 3.

⁹⁰ *Id.*

⁹¹ See UNGA Resolution A/RES/48/141, 7 January 1994.

⁹² See Human Rights Council Resolution 39/9, 25 September 2018. This resolution was adopted by a vote of thirty to twelve, with five abstentions.

⁹³ See Chimni, n. 79, 260, suggesting that there have been attempts within the Human Rights Council to limit the scope of the right to development.

procedures that are relevant to SDG 1 include the special rapporteurs on the right to development⁹⁴ and on the right to food,⁹⁵ the independent expert on the effects of foreign debt on the full enjoyment of all human rights, particularly economic, social, and cultural rights,⁹⁶ and, most relevant, the special rapporteur on extreme poverty and human rights.⁹⁷ Special procedures provide an interesting institutional avenue for normative development because, unlike most other institutions, the experts are constrained by neither political dynamics nor legal instruments. They survey the landscape of law and policy within their mandate. Their reports, and the recommendations contained therein, need not be constrained by the strictures of law, which, as suggested above, are not sufficiently robust for the attainment of SDG 1. Successive special rapporteurs with various mandates have made recommendations, which are not strictly required by law, on how institutions of international economic law can better contribute to the achievement of SDG 1.⁹⁸ These special procedures thus provide pathways for increased ambition and innovative approaches that make it possible to advance solidarity.

However, the same flexibility that provides special procedure mandate holders with the freedom to make recommendations that are unconstrained by the strictures of legal rules and the methodology of international law affects the status and value of their outputs. While they are independent, and not constrained, at least not as rigidly, by any particular instrument, their reports and recommendations lack legal status, even if they are used in academic discourse and debate to push the envelope. The recommendations may be taken up by the institutions to which they are directed, such as the WTO or international financial institutions, or they may influence states and either be incorporated into legal instruments or assume legal relevance as subsequent practice under article 31(3) of the VCLT. However, their transition into the legal system depends on the endorsement and action by states or international institutions.

Another subsidiary organ of the Human Rights Council that may contribute to the achievement of SDG 1 is the Intergovernmental Working Group on Transnational Corporations.⁹⁹ This working group was established “to elaborate an international legally binding instrument to regulate,” in accordance with human

⁹⁴ See UN Human Rights Council Resolution 33/14, 29 September 2016, para. 14.

⁹⁵ See Commission for Human Rights Resolution E/CN.4/Res/2000/10, 17 April 2000, para. 10.

⁹⁶ See Commission on Human Rights Resolution A/HRC/Res/2000/82, 27 April 2000.

⁹⁷ See Commission on Human Rights Resolution E/CN.4/Res/1988/25, 29 February 1988.

⁹⁸ See Oloka-Onyango & Udagama, n. 66, paras. 12ff (postulating that the WTO should be subject to international human rights law to make it more responsive to the needs of the poor); see also *Report on Extreme Poverty*, n. 81, especially paras. 65ff (recommending that the IMF adopt a more “ethical framework”); *Report of the Special Rapporteur (Philip Alston) on Extreme Poverty and Human Rights “Climate Change and Poverty,”* Doc. A/HRC/41/39, 17 July 2019, para. 68.

⁹⁹ Human Rights Council Resolution on Elaboration of an International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with Respect to Human Rights, Doc. A/HRC/RES/26/9, 14 July 2014.

rights law, “the activities of transnational corporations and other business enterprises.”¹⁰⁰ Transnational corporations have been accused of operating in resource-rich developing states, exploiting the resources for profit with little regard for the human rights of the population – particularly, their socioeconomic rights.¹⁰¹ Establishing obligations for private entities to fulfill socioeconomic rights as they benefit from the resource-rich, but economically poor, states would be an important element in achieving SDG 1. Whether this materializes will depend on the ambition of the instrument and on whether it will be widely ratified, including by the home states of the entities being regulated.

Bodies charged with interpreting human rights instruments – both universal and regional – also have the potential to contribute to the achievement of SDG 1. These bodies include judicial bodies, such as the African Court on Human and Peoples’ Rights, the European Court of Human Rights, and the Inter-American Court of Human Rights, and quasi-judicial human rights monitoring bodies, such as the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights (CESCR). They can contribute to the achievement of SDG 1 by interpreting the rights related to the eradication of poverty in an expansive manner, as discussed in Section 1.2. This applies both to the content of the rights, which impacts on ambition, and to their territorial scope, which affects solidarity. Yet their findings are governed and constrained by the rules of interpretation. Moreover, the interpretive authority of quasi-judicial bodies is dependent on the readiness of states to adopt their interpretation as subsequent practice under article 31(3)(b) of the VCLT.¹⁰²

1.4.2 *International Economic Institutions*

International economic law too has institutions that could potentially contribute to the eradication of poverty. As a matter of rhetoric, international financial institutions have committed themselves to contributing toward meeting the SDGs and, in particular, SDG 1.¹⁰³ These institutions include the members of the World Bank Group, the IMF, and the WTO, and they have come under severe criticism for their

¹⁰⁰ *Id.*, para. 1.

¹⁰¹ Beth Stephens, “The Amoralism of Profit: Transnational Corporations and Human Rights” (2002) 20 *Berkeley Journal of International Law* 70; Alison Shinsato, “Increasing the Accountability of Transactional Corporations for Environmental Harms: The Petroleum Industry in Nigeria” (2005) 4 *Northwestern Journal of International Human Rights* 195; Sigrun Skogly, “Economic and Social Human Rights, Private Actors and International Obligations,” in Michael Addo (ed.), *Human Rights Standards and the Responsibility of Transnational Corporations* (Kluwer, 1999), 239.

¹⁰² See “Draft Conclusion 13 of the 2018 ILC Draft Conclusion on Subsequent Agreements and Subsequent Practice in the Interpretation of Treaties,” Doc. A/73/10, in *Yearbook of the International Law Commission*, vol. 2, part 2 (International Law Commission, 2018).

¹⁰³ See Suresh Nanwani, “SDGs and the Role of International Financial Institutions,” in Julia Walker, Alma Pekmezovic, & Gordon Walker (eds.), *Sustainable Development Goals*:

unwillingness to contribute positively toward poverty reduction.¹⁰⁴ While many of these criticisms are normative in nature,¹⁰⁵ there are also many institutional concerns about equity in decision-making in these bodies. These concerns relate to the applicable decision-making procedures in financial institutions where participation in decision-making is based on financial contribution and developing states are not afforded an equitable role.¹⁰⁶ It has also been observed that “wealthy countries . . . have been able to coordinate their interests more easily through a variety of international economic legal and semi-legal entities” than poorer states.¹⁰⁷

Institutions themselves tend to be restricted by the constituent instruments and the states that created them.¹⁰⁸ This militates against the possibility of innovative solutions to address poverty reduction. Action, whether in the form of litigation before courts or complaints before quasi-judicial bodies, might provide a pathway to developing international law in a way that makes it more responsive to poverty concerns. The Inspection Panel of the World Bank is an example of an internal forum, established by the World Bank, with the mandate to hear and make determinations on complaints by members of society affected by the activities of the World Bank.¹⁰⁹ However, the Inspection Panel is limited in its mandate to consider harm caused by the “failure of the Bank to follow its *operational policies and procedures*” in relation to bank-financed projects.¹¹⁰ It is these operational policies and procedures, and not the broad objective of poverty eradication, that the panel applies in assessing the World Bank’s performance.¹¹¹

Harnessing Business to Achieve the SDGs through Finance, Technology, and Law Reform (Wiley, 2019), 37, 38.

¹⁰⁴ See, e.g., Rich, n. 75; Chossudovsky, n. 75; Horta, n. 75; Ochoa, n. 75.

¹⁰⁵ See Tladi, “Sombre Reflections,” n. 76; Tladi, “IMF Conditionality,” n. 76. See also Genoveva Hernandez Uriz, “To Lend or Not to Lend: Oil, Human Rights, and the World Bank’s Internal Contradictions” (2001) 14 *Harvard Human Rights Journal* 197, 197.

¹⁰⁶ See Anghie, n. 76; see also Armin von Bogdandy, Phillip Dann & Matthias Goldmann, “Developing the Publicness of Public International Law: Towards a Legal Framework for Global Governance Activities,” in Armin von Bogdandy et al. (eds.), *The Exercise of Public Authority by International Institutions: Advancing International Law* (Springer, 2010), 3, 8.

¹⁰⁷ David Zaring, “International Institutional Performance in Crisis” (2010) 10 *Chicago Journal of International Law* 475, 478. An example of the outcome of such institutional coordination is the Group of 20 (G-20). A forum of twenty states made up of mainly developed states with Argentina, Brazil, India, and Indonesia, the G-20 self-describes as “the premier forum for international cooperation” in which “leaders of the largest economies of the world . . . discuss financial and socioeconomic issues.” See G-20 website, g20.org/en/about/Pages/default.aspx.

¹⁰⁸ Henry Schemers & Niels Blokker, *International Institutions Law: Unity within Diversity*, 5th ed. (Martinus Nijhoff, 2011), 15.

¹⁰⁹ See para. 12 of the identical 1993 resolutions of the International Bank for Reconstruction and Development and the International Development Association (Resolution no. IBRD 93-10 and Resolution no. IDA 93-6).

¹¹⁰ *Id.* (emphasis added).

¹¹¹ For a detailed discussion, see Tladi, “Sombre Reflections,” n. 76, where both the operational policies and procedures, as well as the inspection panel’s assessment of these in particular complaints are addressed.

However, there is room for greater synergy between instruments from different areas of international law and cross-fertilization, including through the principle of systemic integration. Both the World Bank and the panel could consider socio-economic rights instruments, in interpreting and applying the Articles of Agreement and the operational policies and procedures in a manner that contributes to the achievement of SDG 1. Relying on human rights – in particular, socioeconomic rights and the right to development – in the interpretation of the World Bank's instruments would be in line with the fact that the World Bank has adopted its twin objectives: ending extreme poverty and boosting prosperity.¹¹² This same reasoning can be applied by other institutions of international economic law, to the extent that their instruments permit. For example, as discussed above, the WTO Agreement proclaims in its preamble that raising the standard of living is an objective of the organization. This wording permits its institutions, including the panels and the Appellate Body, to integrate socioeconomic rights into their decision-making in order to contribute to the achievement of SDG 1.¹¹³

There is therefore significant room for the institutions of international economic law, in interpreting and applying the rules of their institutions, to reach into other areas of international law – in particular, human rights law – in order to enhance the ability of international economic law to contribute to the achievement of SDG 1 and, indeed, all SDGs. Doing so, however, would not obviate the need for states to be more ambitious and conscious of the need to advance solidarity when making and developing the substantive rules of international law.

1.5 CONCLUSIONS

The SDGs set out the policy objective of the United Nations to make our world a better place for all who live in it. The SDGs are not a set of rules of international law. SDG 1 does not set forth a rule to eradicate poverty. Indeed, such an obligation does not exist under international law. International law, as a system, is not geared toward the eradication of poverty.¹¹⁴ This was illustrated through an overview of the areas most closely related to poverty eradication – namely, international human rights and economic law. The human rights most closely associated with the eradication of poverty – socioeconomic rights – are subject to a number of qualifiers. Moreover, reflective of the general posture of international law, these human rights, in a practical way, do not exhibit a shared responsibility or solidarity, which undermines international law's ability to fight poverty. Similarly, international

¹¹² VCLT, art. 31, includes the object and purpose of a treaty amongst the main elements of treaty interpretation.

¹¹³ See, e.g., Dommen, n. 58, 121.

¹¹⁴ It has been argued that international law is designed to perpetuate the existing patterns of inequality and, thus, poverty. See generally B.S. Chimni, "Third World Approaches to international Law: A Manifesto" (2006) 8 *International Community Law Review* 3, 3.

economic law has been at the receiving end of some harsh criticism for, at best, its failure to contribute to poverty eradication and, at worst, its contribution to the increase of poverty. If international law is to contribute toward poverty eradication, a major recalibration is required.

The question that this chapter has sought to address is whether SDG 1 could be the impetus for recalibrating international law in support of poverty eradication. To contribute to advancing the rules of international law on poverty eradication would depend on the ambition of SDG 1, in terms of content, and on the extent to which it promotes solidarity. While the overall objective of SDG 1 is highly ambitious and couched in absolutist terms, the individual targets for its achievement lack the same absolutist character. Yet, even though these targets do not show an absolutist ambition, they are still, as far as content goes, more ambitious than current rules of international law and could contribute to the improvement of international law if they are taken into account in the making, molding, and interpretation of international law.