“The Opposite of Poverty”: Global Debt and Human Rights

A thesis submitted in fulfilment of the requirements for the degree of Doctor of Philosophy

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Declaration

I certify that except where due acknowledgement has been made, the work is that of the author alone; the work has not been submitted previously, in whole or in part, to qualify for any other academic award; the content of the thesis is the result of work which has been carried out since the official commencement date of the approved research program; any editorial work, paid or unpaid, carried out by a third party is acknowledged; and, ethics procedures and guidelines have been followed.

Aisling O’Donnell

2/2/2017
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“Sometimes the opposite of poverty is not wealth. Sometimes the opposite of poverty is justice.”

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<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
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<tr>
<td>BIS</td>
<td>Bank for International Settlements</td>
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<tr>
<td>CCL</td>
<td>Contingency Credit Line</td>
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<tr>
<td>CCECR</td>
<td>Committee on Economic, Social and Cultural Rights</td>
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<td>CESR</td>
<td>Centre for Economic and Social Rights</td>
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<td>CRA</td>
<td>Credit Rating Agency</td>
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<td>DFID</td>
<td>Department for International Development</td>
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<td>DRC</td>
<td>Democratic Republic of the Congo</td>
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<tr>
<td>DSF</td>
<td>Debt Sustainability Framework</td>
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<tr>
<td>ECA</td>
<td>Export Credit Agency</td>
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<td>ECGD</td>
<td>Export Credit Guarantee Department</td>
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<td>EFF</td>
<td>Extended Financing Facility</td>
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<td>ERM</td>
<td>Exchange Rate Mechanism</td>
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<td>ESAF</td>
<td>Enhanced Structural Adjustment Facility</td>
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<tr>
<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>FFD</td>
<td>Finance for Development</td>
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<td>FSAP</td>
<td>Financial Sector Assessment Programme</td>
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<td>FSF</td>
<td>Financial Stability Forum</td>
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<td>FTAP</td>
<td>Fair and transparent arbitration process</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<tr>
<td>GNI</td>
<td>Gross national income</td>
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<td>HIPC</td>
<td>Heavily Indebted Poor Country</td>
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<tr>
<td>IASC</td>
<td>International Accounting Standards Committee</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<td>--------------</td>
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<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<td>IDA</td>
<td>International Development Association</td>
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<td>IDB</td>
<td>Inter-American Development Bank</td>
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<td>IFI</td>
<td>International Financial Institution</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<tr>
<td>IOSCO</td>
<td>International Organisation of Securities Commissions</td>
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<tr>
<td>GATT</td>
<td>General Agreement on Tariffs and Trade</td>
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<td>J2K</td>
<td>Jubilee 2000</td>
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<tr>
<td>LDC</td>
<td>Least Developed Country</td>
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<td>MDGs</td>
<td>Millennium Development Goals</td>
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<tr>
<td>MPH</td>
<td>Make Poverty History</td>
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<tr>
<td>NAB</td>
<td>New Arrangements to Borrow</td>
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<td>NEF</td>
<td>New Economics Foundation</td>
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<td>NIE</td>
<td>New Institutional Economics</td>
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<tr>
<td>NPV</td>
<td>Net Present Value</td>
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<tr>
<td>ODA</td>
<td>Overseas development assistance</td>
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<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<tr>
<td>OFC</td>
<td>Offshore Financial Centre</td>
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<tr>
<td>PRSC</td>
<td>Poverty Reduction Support Credit</td>
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<td>PRSP</td>
<td>Poverty Reduction Strategy Paper</td>
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<tr>
<td>SAP</td>
<td>Structural Adjustment Policy</td>
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<tr>
<td>SDDS</td>
<td>Special Data Dissemination Standard</td>
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<tr>
<td>SDRs</td>
<td>Special Drawing Rights</td>
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<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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WFA  World Financial Authority

WTO  World Trade Organization
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ABSTRACT

The crisis of unsustainable debt in poor countries that began in the 1970’s has not been resolved despite massive and sustained civil society mobilisations on the issue and the best efforts of International Financial Institutions and Northern governments. As a result of the financial crisis of 2007-08, debt crisis is now a global phenomenon. It is the argument of this thesis that the continued requirement to service unsustainable debt in poor countries forces governments to violate economic and social rights. Furthermore, the democracy, accountability and transparency deficits which plague the infrastructure and processes of the institutions responsible for resolving the crisis are increasingly problematic. Using a critical interpretive approach, this research argues for a human rights approach to debt workout, which places the human person and the environment, rather than the market, at the centre-piece of social arrangements.

This research contends that where governments of poor countries are prioritising the debt servicing requirement over the satisfaction of core obligations to the International Covenant on Economic, Social and Cultural Rights, they are in violation of it. It also draws upon Bietz’s (2009) understanding of human rights as a public political practice as a way to conceive of a practical framework within which more expansive problems of global poverty and inequality can be addressed.
INTRODUCTION

Our destiny is frequently met in the very paths we take to avoid it.

Jean de la Fontaine, 1678

When I cast my mind back to what drew me to the debt question in 2008 I am mostly struck by my naïveté. In 2007 I was completing my Masters of Philosophy in International Peace Studies at Trinity College in Dublin and I remember wrestling with the idea that meaningful discussions about lasting peace or sustainable development could only come up short where proper consideration of the massive transfer of net wealth from ‘South’ to ‘North’ was not a problem of central concern. I began reading books by the prolific development author Susan George (1988;1992) such as *A Fate Worse than Debt* and *The Debt Boomerang* and Patrick Bond’s (2006) *Looting Africa: the Economics of Exploitation* and found the clarity that infused the work of these author/activists compelling. I also remember being impressed at the time by Johan Galtung’s (1969) theory of structural violence in which he contends that the way that social structures and institutions operate to prevent individuals from meeting their basic needs constitutes a kind of violence.

As I continued to read further into the problem, I found many scholars and analysts had concluded that the debt question was best addressed by, what I would have thought intuitively, were the tremendously hostile organizations and actors who make up the global political economy. In engaging my professors and peers on the subject, the consensus was that unsustainable debt in poor countries was a problem best grappled with by economists or perhaps political scientists, or even diplomats and bankers. Certainly the idea that the problem of global debt could be a human rights issue was regarded as a long and an unlikely stretch. Unperturbed, I decided the focal point of my doctoral research project would be to make that very argument. That project has been framed around four major questions.

### Research Questions

In this thesis I address several questions framed by one proposition and one intuition. The proposition is that efforts to resolve debt crises by applying conventional economic theoretical frames have failed and that conventional political processes have been implicated in this failure. The intuition is that a human rights approach may better address the debt problem.

In order to unpack the problem formed out of the conjunction of this proposition and intuition, I
address a series of questions:

1. How has the debt problem, and solutions like structural adjustment or debt default, been conventionally represented and addressed by economists and government agencies, in particular the Bretton Woods agencies, in the period since 1979? What is problematic about these representations?

2. How important have explanations and prognoses which are reliant on dominant or conventional or neo-classical economic paradigms been in framing the debt problem? What is problematic about these paradigms?

3. What kinds of political processes reliant on this economic discourse have been made to address this problem and how successful have these efforts been?

4. What considerations might suggest that the debt problem might be better framed and addressed as a problem requiring the adoption and promotion of a human rights approach which draws on the International Covenant on Economic, Social and Cultural Rights (ICESCR), a multilateral treaty adopted by the UN General Assembly in December 1966?

Let me begin by outlining the case for asking these questions.

**The Why of It**

My point of departure was the intuition that there was something seriously wrong with the way the global debt problem was being represented and discussed by mainstream leaders of opinion and government agencies, including intra-state institutions like the IMF and World Bank and furthermore, that the debt problem could well be susceptible to a quite different and more successful kind of resolution which opposed the conventional insistence on a market-based solution. I began to contemplate seriously the value of invoking a political practice based on human rights which could, for example, involve the re-appropriation of funds ear-marked for debt-servicing.

For the most part, problem debt in poor countries has been addressed by agencies like the IMF and World Bank as a problem arising out of ‘economic mismanagement’ by incompetent or even corrupt governments, failing to display appropriate regard for the role played by a neo-liberal free market and trade liberalisation reform agenda (eg., Owusu, 2003, Centeno & Cohen 2012).¹

¹Whilst the IMF and the World Bank do not often overtly refer to the incompetence of governments of indebted countries in the South, it is implied everywhere in the manner in which the policies of debt management and adjustment have been imposed upon them. The hegemonic relationship
Certainly many academics and activists have explained the problem in other ways, including the arguments that debt is a result of hegemony (George, 1988, 1992), globalisation (Dienst, 2011), economic enslavement (Bond, 2006), the odious debt doctrine (Rasmussen, 2007) and so on and so forth. The commentary and insight produced in these discourses has failed to be translated in any significant way into the ‘practical’ solutions adopted to address the debt question by the powerful agents involved like the IMF and World Bank and the member states comprising the Group of Eight (G8)\(^2\). The economic solution which has consistently been promoted to Heavily Indebted Poor Countries (HIPC) derives its authority from reliance on what for want of a better category I will call the ‘neo-classical’ tradition in economics which has sustained a neo-liberal policy frame (Raffer, 2011)\(^3\).

It hardly contributes something new to the discourse to argue that the economic approaches taken by the IMF and the World Bank, or the consequential neo-liberal policy frame have failed. Many between IFIs and indebted country governments often finds expression through policies that could be described as belligerent. Murshed and Raffer (1993) point out that:

...in 1989 Nicholas Brady reaffirmed and strengthened the role of the International Monetary Fund, the World Bank and the IBRD as debt managers and promoters of ‘sound policies’ through advice and financial support (p. 2).

Continual reference to ‘sound policies’ implies the ‘unsoundness’ of policies designed and implemented without IMF or World Bank supervision. Murshed and Raffer go on to note that:

Paris Club debt rescheduling’s and debt reductions depend on IFI ‘seal of approval’. Prior agreement with Bretton Woods Institutions is a condition for debt reduction under the Enterprise of the Americas Initiative. The EC consider SCs with IFI-supported adjustment programmes as automatically, although not exclusively, eligible for Community adjustment resources. Occasionally even domestic laws in the North, such as the US International Lending Supervision Act, base legal consequences on the IMFs judgement on a debtor country (1993, p. 2).

This demonstrates the extent to which powerful agents in the international arena re-enforce the narrative that IMF and/or World Bank supervision is synonymous with principals of sound economic management.

\(^2\) When the group first formed in 1975 it comprised of France, West Germany, Italy, Japan, the United Kingdom, and the United States and was known as the G6. Currently known as the G8, in addition to its charter states it includes Canada, since 1976, and Russia, since 1998. The EU is considered a non-enumerated ninth member.

\(^3\) There is a large and contested literature about the wisdom of referring either to a ‘neo-classical tradition’ in economics, or to a ‘neo-liberal policy frame’. Writers like Colander (2000) have challenged the value of talking about a neo classical tradition while Fulbrook (2006) and Harvey (2007) challenge the legitimacy of referring to a neo-liberal policy frame. As will be clear I will be drawing on both critiques in making use of these categories.
critics like Sachs, (1989, 2008), Toussaint, (1999, 2007); Hertz (2004) and Raffer (2010) have structured and furnished that critique. However there are as I suggest here briefly, major issues involved in characterising both the kind of economics at stake as well as the kind of policy frame it has informed. An investigation of the theoretical underpinnings of modern economics is undertaken in this introduction in order to demonstrate that the neo-liberal policy frame involves an arbitrary and haphazard basket of economic policy practices that do not have the sound theoretical foundation that would make them appropriate to the task of resolving the debt crisis in poor countries.

In order to make this case, it is necessary to take a broad view of economic thought stretching back over the last one hundred and fifty years. The term ‘neo-classical’ coined by Veblen (1900, p.261) traditionally refers to the economics of the 1870s to 1930s. It has also come to be interchangeably used to denote modern economics, specifically when juxtaposed against ‘heterodox economics’. As Colander (2000) argues:

...unfortunately, the two uses make logical sense only if modern economics is essentially the same in the earlier time period as it is today. You can’t have it both ways. Either modern economics is part of neo-classical economics or it isn’t (p. 133).

It is my understanding that it isn’t.4

The so-called first generation ‘neo-classicists’ such as Jevons, Marshall, Menger and Walras, “set about defining a set of concepts that could be combined in a manner formally analogous to the

4 Colander argues that the distinction between neoclassical economics and modern economics can be demonstrated by showing how the fundamental assumptions of neo-classical economics differ from those of modern economics. Colander points out that neo-classical economics focuses on “allocation of resources at a given moment in time” (Colander, 2000 p. 134) where modern economics is pre-occupied with allocation over time, considering growth a central focus. “New growth theory” for example is often contrasted with neo-classical growth theory (Colander, 2000, p. 135).

Colander contends that key to understanding the neo-classical economy is utilitarianism, whereas few if any proponents of modern economics would accept this premise. Whilst utility theory might still be present in textbooks it has virtually no practicable use in modern economics. Colander further points out that the assumption of farsighted rationality that underpins neo-classical economics has been replaced in the approaches of modern economics with “bounded rationality, norm-based rationality (perhaps established through evolutionary game theory), and empirically determined rationality” (Colander, 2000, p. 135). Where neo-classical economics accepts methodological individualism, which begins with individual rationality and then extends outwards to social rationality, many proponents of modern economics question or reject this premise.

Complexity theorists challenge the entire individualistic approach, at least when that approach is used to understand the aggregate economy. Evolutionary game theorists are attempting to show how such norms develop and constrain behaviour. New Institutionalists consistently operate out of a framework at odds with methodological individualism (Colander, 2000, p. 135).

Finally, the general equilibrium concept of the economy, fundamental to neo-classical economics, is slowly being revised to include concepts of multiple equilibria (Colander, 2000, p. 136).
physical relations modelled by classical mechanics” (Fulbrook, 2006, p. 2). Veblen, a formidable critic of the emergent neo-classical tradition, provided an early formalisation of their work and drew attention to the commonalities between the ‘marginalists’ (like Marshall) ‘neo-classicists’ (like Jevons), and the ‘Austrian school’ (like Menger). Where the theory of classical economics posited that goods have a certain objective value, neoclassical economics ascribes the power of price determination to individual preferences and scarcity. Seeking to mathematize economics, neoclassical economics has long tried to address the tension between what its advocates insist are limited resources and unlimited human needs by establishing price as a function of supply, demand and consumer preferences. By substituting the concept of objective value for determinate value, the proponents of the neo-classical tradition insist that economics is a discipline well able to scientifically explain and predict human behaviour, given the prima facie assumption that agents are rational actors. This research finds many of the claims made in neo-classical economic theory problematic.

There are also important discussions regarding the extent to which debate about the categorisation of modern economics as neo-classical contributes to no less significant confusion about the theoretical basis for the political and policy practices of neo-liberalism. Harvey (2007) has argued that neoliberalism is:

...in the first instance a theory of political economic practices that propose that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework, characterised by strong private property rights, free markets and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices (p. 3).

Notwithstanding the clarity of Harvey’s account, there is a still a good deal of ambiguity about ‘neoliberalism’, the term most widely used to describe the economic policy practices implemented in poor countries under the instruction of the IMF and the World Bank. This has led Fulbrook to argue that:

...neoliberalism’s intellectual origins seem little known and poorly understood. Its abstract

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5 Harvey contents that neoliberalism does not demonstrate any of the major tenets of liberalism proper, but rather constitutes a distinctive economic policy practice. In fact Harvey argues that decidedly anti-liberal autocrats such as Augusto Pinochet and Deng Xiaoping are among the most notable advocates of neoliberalism in the political classes. In spite of this, Harvey notes that there exists alongside these, neoliberals with a liberal bent, for example, Hayek and Friedman loom quite large in the neoliberal discourse, sharing the space with nominally conservative politicians such as Ronald Reagan and Margaret Thatcher. Harvey’s concludes then that the umbrella of neoliberalism can be construed to include everything from Thatcherism to “socialism with Chinese characteristics” (2007, p. 121).
complexity, its improbable association of ideas, its institutional convolutions and its long period of gestation makes its history difficult to grasp and comprehend (Fullbrook, 2006, p. 1).

This research argues that there appears to be good grounds to suggest that the theoretical foundations of IMF and World Bank economic policy intervention in debt crisis management is extemporized at best, and at worst both arbitrary and mistaken. This opens the way to contend that the political economic practices of neoliberalism do not incorporate the key principles of classical economics, neo-classical economics or whatever might be meant by ‘modern economics’.

The second major reason for addressing my research questions is the emergence of broad consensus which contends that whatever neoliberalism is or is not, the cluster of political economic practices that typically constitute it have had a corrosive impact on those poor countries upon which they have been imposed (Raffer, 2011; George, 1988, 1992; Sachs, 1989, 2005). As many scholars have noted, the economic management policy interventions to which these countries have been subjected, in some cases unrelentingly for thirty years, have exacted a devastating social cost (Bond, 2006, Raffer, 2011, Hertz, 2004), making up the conditions aptly described by Farmer as the “political economy of brutality” (Farmer, 2006, p. 46).

In this way, debt is a transnational economic, political, legal, social, ethical and historical problem. It has become central to discussion of a broad range of issues, including globalization, ideology, hegemony, social justice, development, financial sector reform and civic activism (Hertz, 2009; George, 2004, 2010; Dienst 2011; Stiglitz 2002, 2012). Dienst eloquently encapsulates the multifaceted nature of the debt question, noting that:

...by penetrating more and more into the lifeworld and reshaping scarcity in its own image, indebtedness encompasses something more than the list of debts anyone happens to owe at a given moment. At the same time, it projects the twists and turns of inner life on a global scale, as if the economic system could broker a compromise between good conscience and base instincts. By forging countless short circuits between the macro and the micro, indebtedness becomes something like a whole ‘structure of feeling’ whereby humans find themselves owing their existence (along with the lives of other beings) ever more fully to the economic apparatus that claims to control life as such (Dienst, 2011, p. 6).

There is a considerable body of critical academic literature which concedes that the dominant economic frame has failed to address the debt problem. This ranges from those like Stiglitz (2008) who consider the failure to be merely significant, to those like George (2004, 2010) and Raffer (2011) who consider it to be catastrophic. Furthermore, writers such as Munck (2002), Scholte (2011) and McGrew (2004) have argued that the political infrastructure and processes of global economic governance are too weak to hold the relevant policy actors and institutions to account. Where
economic policy interventions have failed to resolve the debt crisis, political processes have proved incapable of responding in an effective manner.

Finally this body of work suggests the value of making a case for bringing a human rights perspective to bear on the debt problem. Certainly the prospect of a human rights approach to debt workout in poor countries presents its own particular subset of complications and it is the task of this research to grapple with these and propose a framework within which they can be resolved.

Technically speaking, the International Covenant on Economic, Social and Cultural Rights (ICESCR) describes rights that must be protected and provided for. Resource constraints that result from the requirement to service unsustainable debt represent an obstacle to this. Furthermore, new developments in the field of measuring and quantifying either the fulfilment or violation of economic and social rights obligations means it is now possible to show where a right is being neglected and how sufficient resources might address that. It can thus be demonstrated that when funds are re-directed from the debt servicing requirement into the fulfilment of core obligations they are able to redress human rights violations6.

This research contends that the human rights framework is an existing structure that governments in poor countries can draw upon in prioritising the most urgent needs of their citizens over the priorities of IFIs and Northern governments. In being accountable to the international human rights standards to which they have bound themselves to, the question of how to navigate the demands and expectations of agencies exogenous to the state becomes secondary. In a sense, the existing human rights framework can act as a buffer that governments of poor countries can wedge between themselves, IFIs and Northern governments, where they are in danger of being forced to prioritise market values over human life or preservation of the natural environment. In this way, unscrupulous demands made by powerful third parties external to the state can theoretically be bypassed.

Whilst technically speaking this argument seems logical, from a practical perspective there are broader considerations of applicability to take into account. Economic and social rights are frequently abandoned to the too-hard basket because contemplation of their practical usefulness invariably invites a conversation about global poverty and inequality which is want to become overwhelming. Nevertheless, a discussion of this nature is entirely appropriate given that measuring the extent of

6 The Centre for Economic and Social Rights (CESR) has designed a practical apparatus, titled the OPERA Framework (2012), which brings together a variety of methods and techniques to offer an in-depth assessment of the extent to which public policies are adequate to protect and promote economic and social rights. The OPERA framework compiles assessments of outcomes, policy and resources for comprehensive analysis. The tools and techniques that the framework draws upon “range from simple descriptive statistics that summarize data to more complex fiscal policy and budget analysis that assess the availability and allocation of resources” (CESR, 2012a, p. iii). In highlighting the link between human rights obligations and the tools available to monitor the extent to which they are observed in practice, “the framework enables a systematic approach to building evidence of failures to fulfil ESC rights” (CESR, 2012a, p. iv).
economic and social rights violations is a highly sensitive exercise in delineating degrees of poverty. There are instances and manifestations of poverty that can be attributed to the requirement to service unsustainable debt certainly, but it seems facetious to address these pockets of deprivation without some consideration of all the rest of global poverty and inequality which is a result of the systemic failure of international global political and economic actors to allocate resources in a way that is either fair or environmentally sustainable. Therefore whilst this research is primarily concerned with one human rights instrument (the ICESCR), and one manifestation of poverty (unsustainable debt), it also seeks to consider the value of human rights as a practice upon which a more human-centred global political economy might be imagined.

It is for this reason that the Beitz approach is included as a component of this research. Beitz’s understanding of human rights as a public political practice describes a way in which human rights might become more embedded into policy and doctrine, capable of addressing expansive and complex problems of global poverty and inequality that fall outside the specifications of debt as it pertains to a quantifiable violations of core obligations to the ICESCR.

Beitz conceives of human rights as an integral part of the machinery of dissent, operating in a complex international political order that seeks relentlessly to balance the competing demands of autonomous states. Beitz is mindful of the complexity of international geo-political and economic arrangements, and contends that given there does not exist a system of global governance in the conventional sense, an order of international concern (that is a system whereby possible norms of human interaction are worked out in the context of political authority primarily housed in territorial states) can only manifest in an arbitrary and ad-hoc manner. Political action is therefore firstly the result of a complex combination of national self-interest, resources, and geo-political relations and imbalances (Beitz, 2009, p. 197). A system of this nature has no precedent of fair or consistent implementation. For this reason, when considering the human rights practice as one of international concern, Beitz describes it as “emergent” (Beitz, 2009, p. 197). Fortuitously, this idea is complementary to the purely legalistic claim that this research already makes to a human rights violation, as it allows for a broader interpretation of the human rights doctrine, as a negotiable feature of contemporary international political arrangements. Although this research contends that the requirement of poor countries to service unsustainable debt at the expense of meeting core obligations to the ICESCR does constitute a rights violation unto itself, the arguments is more comprehensively discharged when this limited interpretation is placed in the broader context offered by Beitz, which allows for human rights to reach beyond its legal foundation and into the possibility that it is an emergent public political practice.

This research builds the argument throughout that the increasing prominence of the market as the arbiter of value has had grave consequences for the majority of people on behalf of whom the market
supposes to negotiate. The case for installing a regard for human rights seems to be very strong. As Dowell-Jones and Kinley (2011) argue, “at their core [human rights] are fundamentally matters of welfare. As such, human rights are intimately tied up with the economic health of the state, as well as of course, much else besides” (2011, p. 184).

Therefore, the human rights component of this research argues that:

1) where governments of poor countries are prioritising the debt-servicing requirement over the satisfaction of core obligations to the ICESCR, they are in violation of it; and

2) Beitz’s approach, which considers human rights as a public political doctrine can be instructive in shaping a practical framework within which to address more expansive problems of global poverty and inequality.

This two-pronged approach is designed to show not only how a claim to a violation can be made in a technical sense, but how one might, as part of a broader public political program, imagine it can be addressed over the longer term.

**On Method**

It will be noted immediately that these research questions, and the body of scholarly literature to which this research refers, do not arise out of any single disciplinary or discursive tradition. Right from the outset, defining the scope of the subject matter was a major challenge. As Dienst points out:

...the concept of indebtedness itself keeps shifting from economics to philosophy, from psychology to sociology to anthropology and elsewhere. Even these disciplinary makers do not even touch upon what we already think we know about debt (2011, p. 5).

Certainly, a comprehensive approach to the problem of unsustainable debt in poor countries must include a number of different perspectives.

A desire to speak to a broad spectrum of concerns seems to invoke some notion of ‘integrated research’. Although the terms ‘interdisciplinary’, ‘multidisciplinary’, ‘trans-disciplinary’ and ‘cross-disciplinary’ are often used interchangeably, some scholars will insist there are fundamental distinctions to be observed between these practices. This research cannot claim to meet the criteria of any of these categories satisfactorily although it does demonstrate various elements of some.

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7 The classification ‘integrated research’ is used as an umbrella term to refer collectively to the categories of ‘cross-disciplinary’, ‘interdisciplinary’, ‘trans-disciplinary’ and ‘multidisciplinary’.
Accordingly this project occupies that invidious position between the proverbial rock and hard place. The spaces constituted by ‘interdisciplinary’, ‘multidisciplinary’, ‘trans-disciplinary’ and ‘cross-disciplinary’ research remains in some senses the wild west of academic frontiers. As McGregor (2006) argues:

...interdisciplinary research is both lauded and ignored across the social science, which exhibit their own languages, methodologies, and assumptions ... Challenging the domination of disciplines is hard even at the multidisciplinary level, let alone in a trans-disciplinary way (p. 33).

‘Integrated research’ is arguably inherently ambitious in nature and has proved difficult to do well. Sumner and Tribe contend that one of the primary difficulties of this type of research is the reality that:

...there are significant intellectual and professional or institutional barriers between disciplines. These barriers are both ontological and epistemological, and are also based on the structure of universities and university politics ... different disciplines have distinct ontological and epistemological approaches – to problem definition, to axioms, and assumption concerning the nature of reality and human beings, to analytical methods and techniques (2007, p. 1).

The practicability of bringing these possibly incommensurable elements into a cohesive and useful intellectual strategy is a complex undertaking, and demands a degree of flexibility which is in some respects the antithesis of the requirement to focus narrowly, which has characterised traditional i.e., disciplinary research.

The most prestigious and arguably least successful category of integrated research is trans-disciplinary, the ambitions of which are seldom realized. The reality remains however, that problems of global reach simply cannot be comprehensively examined by isolated disciplines. Questions of ecology, sustainability, ideology, poverty, development and unsustainable debt are, by definition, not discipline specific and therefore efforts to address them should acknowledge this.

This is not to deny the need to consider carefully the limitations and pitfalls common to this type of research. The most pressing obstacle integrated research must overcome is the reality that academics are comfortable within their own discipline and this is a reflection of (amongst other things) the way the academic community is structured, as both hierarchal and segregated. As Brint (2000, p. 210) describes it, “every academic knows the experience of reading something from outside his or her discipline and knows the unsettling feeling it induces”. Integrated research is an attempt to surmount these ‘unsettling feelings’ and to pool expertise.
In order to be truly integrated, this research would need to be conducted by a number of individuals, each with specific expertise in different disciplines, rather than one individual, gaining some, but limited insight into what a variety of disciplines have to contribute to a particular problem. It is by this standard in particular that this research fails the criteria of integrated research. This begs a question that increasingly prevalent in the contemporary social sciences; is there a space to analyse problems that rests between the extremes of isolated disciplines and harmoniously pooled expertise?

Putting aside for a moment the categorisation of this research, the reality of the problem of unsustainable debt in poor countries is that it is simply impossible to construct a nuanced understanding of it without drawing on a number of disciplines. More than one discipline claims authority on the subject and therefore more than one discipline seeks to promote a remedy designed according to its own diagnosis of the problem. This reality must be not only considered, but actively negotiated.

Without question, some degree of literacy in each discipline is required if only to be cognisant of the parameters within which the debate falls. This research argues that recourse to a human rights approach is appropriate to address a problem that has broadly been categorised as either (or both) economic and political. In order to make this claim, one must be able to identify what component of the problem is economic and what component is political, and how these elements will likely be impacted by a human rights approach. Therefore, and whilst it might not necessarily be absolutely comprehensive, a reasonable understanding of how and where these disciplines intersect is a minimum requirement of this research. Having said this, it must be acknowledged that an understanding of each discipline, and how each discipline interacts with other relevant disciplines, is not strictly speaking, integrated research.

I will argue that there is an emergent space to be negotiated here. In the orthodox sense, integrated research is collaboration between diverse expertise bases, yet increasingly problems of a global nature have qualities that naturally require treatment by a number of disciplines. This complex reality invites a degree of inventiveness, or at least flexibility. I find it conceivable to carve out a niche within which this research can sit, by suggesting that it is inclusionary, rather than integrated. Stock and Burton, when considering frameworks for engaging problems of environmental science suggest that the:

... increasing prominence of issues concerning the linked nature of human and biophysical systems coupled with an increasing understanding of system complexity leave traditional scientific disciplines often struggling to understand the problems facing environmental managers (2011, p. 1091).

Whilst Stock and Burton are referring specifically to the field of environmental science, the same
analysis could be made of problems traditionally concerned with what can be loosely termed the modern social sciences, in particular with regards to developments in the fields of political-economy, sociology, anthropology and law. Stock and Burton (2011, p. 1091) go on to state that:

...politicians are becoming increasingly wary of being 'sold simple solutions to complex problems'. As a result, there has been increasing interest over the last decade both within the scientific communities and funding bodies in developing ways of integrating the research outcomes from disciplinary research, thus breaking down the methodological, epistemological and ontological boundaries that prevent shared understandings of complex issues.

This is particularly true of debt, and links neatly into other ideas relevant to this discussion, such as the concept of problem-oriented subjects. The idea of problem-oriented research is relatively new, and has emerged in specific response to problems that are increasingly recognised to reach outside the confines of any one narrow discipline. This development is fortuitous as the ramifications from the financial crisis continue to manifest. In the failure of traditional disciplines, particularly orthodox economics, to predict, explain or navigate the crisis, the social cost has been exponentially magnified.

As Sumner and Tribe (2007, p. 3) note:

Economists have often been criticised for being discipline-oriented rather than problem-oriented. This implies that they have been accused of being more concerned with finding circumstances to which they can apply conventional economic theories, methods and techniques as purely intellectual exercises rather than with bringing intellectual power to bear on major societal problems through the use of appropriate theory, methods and techniques as a basis for increased understanding of the problem or issue.

At no time has this been more pertinent than the present moment. Since the crisis, acrimonious debate has divided the discipline, pointing to issues of conflict of interest, relevance, accountability, and basic effectiveness. The failure of governments and regulatory agencies to translate sound economic principals into policy formation, and the profound social consequences of that failure, is a re-occurring theme of this research. The current climate is pregnant with opportunities to re-conceive and re-conceptualise integrated research, in particular with regard to debt-workout. This research is therefore presented as inclusionary, subject-based, problem-oriented research. It cannot strictly be considered integrated research, with respect to the current definitions of it, nor does it fall in to any single discipline cleanly, but rather is a specific problem, housed under a broad subject heading, examined through analysis of literature, data and insight from a number of traditional disciplines.

Finally, I would like to introduce into the idea of problem-oriented research, one other relevant concept, that of cultural negotiation. MacCleave (2006) suggests that a researcher (or researchers) might assume the role of negotiator between disciplines, or as she terms them, research cultures. As
she notes we can treat different disciplines as different “cultures” (p. 6), because each has its own way of doing things, relies on deeply embedded assumptions about knowledge and reality, and speaks different specialised languages. She considers that:

Some of these differences might be incommensurable and call for cultural negotiation if a coherent approach is to be adopted. Cultural negotiation helps to make differences more accessible and understandable rather than creating inflexible or polarised ideological camps (2006, p. 6).

This would seem particularly necessary in a problem-oriented approach, where different disciplines often claim ownership of the problem (or at least elements of the problem) and where each discipline has potentially relevant insights and tool of analyses. Some effort must be made by an organising party to filter this information and incorporate the appropriate parts into a cohesive framework. How much influence any one discipline can extend over a proposed solution to a problem-oriented research project should be negotiated between them. This is especially relevant to the question of debt in poor countries, where traditionally the discipline of economics has assumed chief architect of solution design.

As the researcher of this project then, I am positioned as a cultural negotiator between different research communities, and facilitate the bringing together of perspectives which traditionally would resist convergence, or at least operate happily in isolation. With regards to unsustainable debt in poor countries, even the very definition of the problem must be negotiated.

To some extent, economists will, and have, claimed that problem debt in developing economies is a question of poor economic policy and management. Political scientists will, and have, argued that it is a problem of the mechanisms and infrastructure of global political agency. Human rights researchers will, and have, argued that it is a reflection of the low priority ranking of economic and social rights on the global governance agenda and in international law. None of these perspectives are inherently wrong but none are correct in isolation either. There is indeed something material to be negotiated here. The extent to which disciplines are in any way genuinely integrated in this research is limited, if indeed it takes place at all, but rather there is a to and fro effect, or what can be visualised as a panel arrangement, where each discipline proposes and concedes relevant points in a language comprehensible to other disciplines as part of a problem-solving imperative (MacCleave, 2006, p. 7). The problem-solving element is central in determining the relevance of technique, and a measuring rod for arbitration. No party to the panel (for argument’s sake) should be permitted to contend that the problem can only be understood by their own discipline, language and methodology, thereby asserting that the solution can only be designed, (and is excused for being incomprehensible to those outside of) their own discipline, language or methodology. As Dienst suggests:
... instead of opting for one disciplinary language over another, it seems better to trace the outlines of the question in several different ways, in various theoretical idioms and using different objects of analysis [.....] try to engage with various discourses on indebtedness, different nodes or clusters where thinking about the state of the world cannot help but examine the ways we do or do not feel bound to it (2011, p. 6).

This research employs a critical interpretive research method. Critical research can be categorised as that intellectual practice in which the central aim is social critique. This is because:

...the investigation is classified as emancipatory if it aims to help eliminate the causes of unwanted alienation and domination, and thereby enhance the opportunities for the realisation of human potential (Mancome, 2002, p. 80).

Critical analysis rejects the premise that prevailing knowledge is ultimately ‘true’ or should be accepted as such. Rather it seeks to trace the basis of knowledge to structural inequalities at particularly significant junctions in history. In this way, this research examines the manner in which ideology has operated to oppress and manipulate social processes, such as the global campaign to cancel unsustainable debt, and how institutions such as the IMF, World Bank and G8 have contrived to legitimate that which is accepted as knowledge, particularly with regards ideology and economic policy practice. The aim of this analysis is to challenge the current representations of both debt and debt-workout for poor countries and the structural foundations of it, and further, to provide an alternative in a human rights approach.

This is considered possible given that the premise of critical theory is that social reality is a construct of conscious human action and therefore individuals are powerful agents with the potential to change the current social and economic reality. This premise is directly applicable to the hypothesis of this research, in the sense that a human rights approach can be brought to bear on the current debt workout arrangements in order to initiate a model for change. In this way, this research draws on Foucault’s understanding of discourse analysis, which seeks to bring the alternative to light through a disruption of the familiar, or as Foucault states:

...my general theme isn’t society but the discourse of true and false, by which I mean the correlative formulation of domains and objects and of the verifiable, falsifiable discourse that bear them; and it’s not just their formation that interest me, but the effects in the real to which they are linked (Foucault, 1954, p. 225).

This research combines the critical approach with an interpretative one, which has its philosophical roots in phenomenology and hermeneutics and is concerned with the “complexity of human sense-making as the situation emerges” (Mancome, 2002, p. 81). The premise of interpretative research is that social phenomena’s have mutually impacting relationships with social contexts and human
activities, considering in particular the meaning that social actors assign to their actions, which are presumed to be intentional. Using an interpretive approach in this research has enabled me to deepen my understanding of critical, social and organisational issues regarding the accumulation and management of unsustainable debt in poor countries. In this way I have found it possible to build an understanding of the context in which debt in poor countries has been accumulated and how the conditions of the global political economy feed back into and inform debt workout mechanisms, particularly for the global South. The value of the interpretive approach is that it opens up a space in which questions of influence, interrelationships and impact can be addressed. For the purposes of this research, this has been applied to extrapolate on questions of economic theory, political agency and the human rights normative framework.

Connecting the Research Question to the Political, Legal and Economic Traditions

Given that this research seeks to be disciplinary inclusive, it will need to consider the ways that the research question has been treated by the political, legal and economic traditions.

The consideration of sovereign default in legal scholarship and practice is perhaps the most straightforward. Whilst the legal framework for dealing with sovereign default is always evolving, there is currently no comprehensive, obligatory, international mechanism for sovereign debt workout.

At the turn of the 21st century, the IMF proposed a Sovereign Debt Restructuring Mechanism which would have included both an automatic stay of claims from private and public creditors and a proposal for measures to negotiate debt workout plans. This mechanism was never actioned due to the unwillingness of the U.S to pursue new arrangements. As a result sovereign debt workout remains voluntary, informal and ad-hoc, and most financial institutions have come to their own agreements in which defaulting states have no legal guarantees or protections with respect to the efficiency or fairness of debt workout procedures in the event of crisis.

Current arrangements include the coordination of bilateral government debt workout by the Paris Club, the London Club (which provides a site for commercial banks and their sovereign debtors) and the IMF (which provides various lending facilities that reflect its assessment of the requirements of borrower countries). Other arrangements, like the HIPC Initiative, make debt relief dependent upon agreed to conditions which are usually instructions to policy reform. Furthermore, the capacity of creditors to enforce debt contracts is weak. Bulow and Rogoff (1989, pp. 43-50) contend that collateral, when interpreted in the manner that it would be in domestic contracts, is not applicable to
the case of sovereign debt. Recourse to asset seizure in the event of default is complicated, as creditors do not have the right to seek assets kept domestically, and states usually limit the assets they keep abroad, the aggregate value of which would almost certainly fall short of the outstanding debt in any case. Historically then, creditors have only been able to accept unilateral default and/or restructuring, or lobby their own governments to advocate for their cause via the application of trade sanctions or threat of military intervention, a prospect which has not proved appealing to governments in the past.

The ad-hoc nature of debt work-out arrangements notwithstanding, legal principles did at one time offer some protection to debtor governments. The doctrine of absolute sovereign immunity historically protected governments from being sued in foreign courts, however the unqualified nature of this principle is gradually being eroded. After World War II, the U.S codified its new and narrower view of sovereign immunity into law through the Foreign Sovereign Immunities Act of 1976 (FSIA). Mirroring these efforts, the U.K passed the State Immunity Act in 1978, the cumulative result of which is that states (and by extension their public entities) can now be held legally accountable for breach of commercial contracts; ergo they can be sued in foreign commercial courts.

The history of sovereign debt litigation since the FSIA is best described as a slow dismantling of the principle of sovereign immunity. Debtor defences have piecemeal been eroded making creditor efforts to seek remedy through the courts more feasible.

The first significant sovereign debt litigation post FSIA resulted from the debt crisis in developing countries which began in 1980s. Banks and investors filed lawsuits seeking to enforce better terms than those negotiated in the London Club process. In 1982, Allied Bank refused to partake in a debt restructuring agreement with Costa Rica, pursuing instead remedy through the courts (Allied Bank International v. Banco Credito Agricola de Cartago, 1983). Eventually the New York Second Circuit ruled in the Bank’s favour, but facing pressure from the U.S government, Allied settled out of court. Nevertheless, a precedent was set which demonstrated that holdout strategies could be lucrative and that defences such as sovereign immunity no longer offered any reliable protection from litigation.

For the remainder of the 1980s the most significant lawsuit filed was Republic of Argentina v. Weltover, finalized in 1992 (Republic of Argentina v. Weltover, 1992). The Supreme Court supported the plaintiff’s proposal that the issuance of sovereign debt on the international capital market amounted to a commercial endeavour, and that the suspension of payments would have effect in the U.S directly. The significance of this decision was that it granted U.S court’s jurisdiction over any sovereign loans or bonds issued under U.S law.

In the early 1990s, the sovereign debt litigation regime further weakened the protection it afforded sovereign borrowers with the arrival of vulture funds, or specialized distressed debt funds. Formed to
buy securities in distressed investments, such as high-yield bonds in (or near) default, or equities in (or near) bankruptcy, they were often established in pursuit of a particular case. CIBC v. Banco Central do Brazil (CIBC Bank and Trust Company (Cayman) Ltd v Banco Central do Brasil, 1995) was the first major litigation successfully carried out against a sovereign debtor by a vulture fund. After acquiring U.S $ 1.4 billion of Brazilian long-term debt in the secondary market, the Dart family declined to participate in Brazil’s Brady deal of 1992. When the family received a favourable judgment in court, Brazil agreed to settle a portion of the past due interest and the family subsequently sold its entire debt stake at considerable profit.

What the CIBC case confirmed was just how rewarding holdout strategies could be. In addition, CIBC played an important role for case law development as it undermined the so called Champerty defence, which had prohibited the obtaining of debt with the principal intent of filing a lawsuit. The Champerty defence initially seemed to have the capacity to challenge the premise of vulture funds, (the purchasing of debt on secondary markets at a discounted rate in order to sue for full repayment) however it continued to be rejected in most cases after CIBC and had become all but obsolete by 2004. This readied the climate for the modern era of sovereign debt enforcement, in which vulture creditors frequently secured favourable judgments and directed most of their resources to seizing attachable sovereign assets. Since 1992 therefore, the primary focus of indebted sovereign governments is preventing the seizure of attachments. From the perspective of the creditor, the concern is that sovereign immunity laws like the FSIA still protect many government assets from attachments, as it remains the case that sovereign assets are only deemed attachable if they are located in the U.S and employed for commercial purposes.

The possibilities for debt enforcement were again strengthened in the late 1990s when hedge fund Elliott (Elliott Associates, LP v. Republic of Peru, 1996) proposed an alternative interpretation of the pari passu clause, which came perilously close to rendering further asset searches unnecessary. Elliott argued that the clause meant that Peru would be prohibited from paying its restructured creditors without simultaneously making a payment to holdouts. On the basis of this argument, Elliott was able to block an interest payment that Peru intended to make in September 2000 via the settlement provider Euroclear. To avoid the risk of defaulting on its entire stock of Brady debt, Peru chose to settle at face value, which resulted in a lump payment to Elliot of U.S $ 58 million.

Since the early 2000s and Argentina’s debt default, vulture funds have escalated their efforts to seize all assets around the globe making claim to everything from the curious to the preposterous, including central bank assets, a government airplane, an Argentine Navy vessel, social security funds,

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8 Pari passu is a standard clause found in most sovereign debt contracts. When located in corporate bond contracts, the clause is intended to secure equal treatment of creditors in the event of liquidation. Since this situation does not arise in the sovereign context, interpretation of the clause has been the focus of contestation (Bratton, 2004, p. 824).
and even dinosaur fossils on exhibition in Europe (Blackman & Mukhi, 2010, pp. 47-61). Thus far however, these attempts have not proved fruitful.

Another key way which sovereign default is treated in legal precedence and scholarship is the doctrine of odious debt. The chief proposition is that the citizens should not have to service debts incurred by former regimes, particularly those from which they received no benefits, and where the lender was aware of (or indeed profiting from) this circumstance when the loan was extended. The character of the principal is moral, as the doctrine proposes that the circumstances surrounding the way in which the debt was incurred, and the purpose for which it was accumulated, ought to be considered in determining its viability. Sack (1927), the architect of the concept, contended that debts accumulated for reasons contrary to the interests of the state should not be repaid. Examples include loans amassed to strengthen the position of a despotic regime, or to facilitate the oppression of a population.

The doctrine is further supported by the contention that depriving odious regimes access to capital may accelerate their demise, and that this is desirable. The objective is to disrupt lending for ventures that are contrary to the interests of a citizenry that is supressed by an objectionable regime. With advanced knowledge of the likelihood that loans would not be repaid, lenders would be sufficiently motivated not to extend the loan to begin with. The doctrine however has not proved practicable. Even those inclined toward a more expansive view of international law have not found in any treaty or customary practice the possibility of legitimising its application. In this regard the doctrine is perhaps better described as an aspirational literature.

In political scholarship, the treatment of debt is concerned primarily with two problems. The first is the willingness of a debtor to repay, and the second the capacity of a creditor to enforce payment through political means. This scholarship is borne out of the reality that debt repayment is not always and everywhere a reflection of ability to pay, and as previously noted, legal enforcement of payment in the case of sovereign debtors is not self-evident. As Drazen points out, even where a country may be able to repay, they may take the decision not to (2000, p. 587). The implication is that debtor countries may make politically opportunistic decisions by weighing up the cost of default against the cost of repudiation and elect the latter (Saiegh, 2005, p. 369). The question that political theorists seek to address therefore is; why do private creditors lend to governments when there are no binding enforcement mechanisms to protect them against default? Perhaps more to the point, why do governments under these circumstances repay at all?

In analysis of this problem in the British context, North and Weingast (1989, pp. 803-822) refer back to the Glorious Revolution of 1688, regarding it as a seminal moment for the evolution of normative debt arrangements and government borrowing. They propose that the political constraints imposed by the British constitution represented a commitment to repay, and imbued the government with
credibility as a sovereign borrower. Stasavage (2007, p. 123) contends that the pivotal juncture in British sovereign borrowing was not 1688 but 1715, when representation of sovereign lenders was achieved in the legislature via the Whig party. Borensztein and Panizza (2008, pp. 1-20) propose that the likelihood of default can be established as a function of the altruism of leaders. They contend that politicians preoccupied with electoral favour are more likely to avoid default, as to do so (default) could mean a decline in electoral support. Furthermore, even where sovereign defaulters do not face prolonged periods of capital market exclusion in response to default, there are still significant political costs to consider, as default often pre-empts the ousting of politicians and administrators from office. Borensztein and Panizza (2008, pp. 1-20) contend that leaders who are not bound by the imperative to court popular favour are more likely to advance their own interests and therefore default more readily. They further make a distinction between defaults on bond debt, which appear to precede larger political costs in democracies, and defaults on bank debts, which are more costly in dictatorships.

Alongside these considerations is a growing literature which considers the impact of governance arrangements in determining prospects for economic growth; a variable in determining capacity to service debt repayment obligations. Lending empirical weight to the earlier contentions of neo-institutional scholars such as North (1993) and Olson (2003), a number of recent studies have established a positive relationship between governance structures, institutional quality and economic growth. The emerging consensus between growth economists and policy analysts is that sound institutional arrangements are central to the possibility of growth (Knack & Keefer, 2003, pp. 207-227).

This new scholarship has seen a governance-matters approach emerge in the development discourse; however consensus regarding the exact mechanisms via which institutions impact growth remains elusive, as indeed does the nature of the conditions under which good institutions can be made manifest to begin with. In this case, there are two questions to be addressed. The first considers the extent to which governance institutions matter for growth prospects, and the second, the type of policy approaches to institutional reform that are most likely to foster economic development.

Indeed the question of what causes growth remains a controversial one. The traditional view from economic scholarship is that it is a result of the relationships between capital, productivity, technology and market access, however increasingly, an awareness of the impact of political forces and institutional arrangements on growth prospects is being recognised. Initial attempts to combine economic and political analyses to account for the determinants of economic growth studied the effect of political regimes on growth outcomes and produced three schools of thought. The conflict school posits that democracy is disadvantageous for economic growth, particularly in less developed countries, where it creates consumption pressures, fuels distributional conflicts, and impedes capital
accumulation. The compatibility school contends that democracy is advantageous for economic growth, where imbedded civil and political rights produce the social conditions favourable to development. The sceptical school contends that it is not possible to establish a consistent relationship between democracy and economic development.9

As a result of the failure of these schools of thought to converge on consensus, many political economists have begun to investigate the impact of institutional arrangements, rather than political regimes, on economic growth. Referred to as the ‘institutional turn’, this scholarship gained momentum in the mid-1990s, with publications by Knack and Keefer (1995, pp. 207-227), who sought to test the hypothesis that institutions are a key factor of economic performance.10

This emerging discourse considering the impact of institutions on growth prospects seems to support the early ideas of North (1993) and Olson (2003), who highlighted the importance of contractual enforcement mechanisms and property rights to enhancing the possibility of growth and prosperity. Whilst it may not be so straight forward as to assert that if poor countries adopt good institutions they experience growth, at the very least, “per capita income and the quality of governance are strongly positively correlated” (Kaufmann & Kraay, 2003, p. 175).

What is less clear is what the term ‘institution’ encompasses and the extent to which it is possible to determine its ‘goodness’, given that positive knowledge about institutions remains incomplete. Where institutional arrangements seem to work, no formula can be derived to explain the occurrence, as those same institutional arrangements do not do well in other places under other circumstances. It is therefore difficult to deduce sound institutional laws that can be broadly applied. Even where it can be established that specific governance and institutional arrangements are advantageous to prospects for growth, they are usually not transplantable, at least not in entirety. Complex problems of culture, history, competency, rule of law and collective will, make such an undertaking improbable. Nevertheless, this research contends that governance arrangements, and increasingly institutional arrangements, are important to consider in any comprehensive analysis of sovereign debt default.

From the perspective of economic scholarship, rather than speak directly to the treatment of debt in the literature and in fact, which constitutes the analysis of chapters two and three, it seems more

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9 Advocates of the conflict school generally make reference to South American countries such as Chile or East Asian countries such as South Korea to support their argument that dictatorships can encourage strong growth. On the other hand, Feng (2003) contends that empirical evidence to support the claim that there is a relationship between the political regime type and economic growth is not conclusive (pp. 320-1).

10 In a study that considered 97 countries over the period 1974-89, Knack and Keefer (1995) found that institutional quality and operational capacity was a factor of the robustness of property rights and the capacity to enforce contracts, all of which proved instrumental to determining prospects for economic growth and the ability to attract investment (pp. 207-227).
useful here to contextualise the discussion into the broader trajectory of economic thought from the outset.

Two schools of economic thought have dominated the last century; Friedman and Hayek on the one hand and Keynes on the other. These schools propose different causation and remedy to economic crises, debt crises in particular. The practice of modern economics (broadly speaking) is the implementation of the political economic policy program of neoliberalism.

Any critique of the effectiveness of neoliberalism however, should be distinguished from a general critique of classical liberalism, neo-classical liberalism, or neo-liberalism proper, as it emerged in its original form in the interwar period, and the potential understanding these discourses might bring to the questions of debt and debt workout. This research contends that it is possible to conceive of the ways that tenants of classical liberalism, neo-classical liberalism and neo-liberalism proper can be interpreted to support the main contention of this research, and further, that it is unlikely that the theorists of neo-classical liberalism, or indeed neo-liberalism proper would have sanctioned the manner in which interpretations of theory have been presented as the scientific basis for the political economic policy program of modern economics. As Boettke and Luther point out:

...we have deluded ourselves into believing that politicians who freely adopt the language of the great economists were actually persuaded by their arguments and ready to follow that advice. They were not ready. Instead, they constantly intervened in the economy, either by abandoning principals or in the name of principals. As a result, the language of economics has been corrupted – reduced from science to mere opinion (2009, p. 7).

Rather than constituting a theory of economics, the neoliberal program offers an account of political and economic realities that describes a singular choice between free markets and communism, which is no substitute for the actual choice between an extreme variety of free markets and effective regulation of the shadow banking system, or alternatively an extreme variety of free markets and the level and progressivity of the personal income tax. The economic component of neoliberalism is but one part of the broader doctrine which encompasses both the political and the ideological.

The reality of economic theory in general, is that it is often invoked by political agents who then re-shape it to appeal to either the perceived preferences of the electorate whose favour they court, or to justify the imposition of an economic or political policy practice that may be unpopular. The final result can be a policy practice far removed from the theory to which it claims to ascribe, or as Curthoys observes, “the original versions of a theory might be a lot more subtle than what opinion-makers make of them” (2010, p. 48).

Jones notes that, “if one takes a historical perspective on what neoliberalism is, it is more than one thing” (2012, p. 23) and therefore in order to consider neoliberalism in its appropriate historical
context, the point of departure is to note that it is not a monolithic theory.

The term neoliberalism was first coined by German scholar Alexander Rüstow at the Walter Lippmann Colloquium in Paris in August 1938. The 1930s, and the decades preceding them, were a tumultuous time for Europe. WWI and the Great Depression had ravaged the continent and liberalism had lost significant ground to the growing popularity of collectivism. In this climate, French philosopher Lois Rougier convened a group of liberal intellectuals to consider the ideas of Walter Lippman presented in his work, *The Good Society*, in which “he criticised all variants of collectivism such as socialism, national-socialism, fascism, but also Roosevelt’s New Deal policies” (Hartwich, 2009, p. 18). Lippman decreed the old liberalism of laissez faire a failure, opening up a space for its reconceptualization. Among the group gathering at the Colloquium was not only Lippman, but:

French philosopher Raymond Aron, Austrian economists Fredrich August Von Hayek and Ludwig von Mises, British Hungarian philosopher Michael Polanyi, and the two German economists Wilhelm Ropke and Alexandre Rüstow (Hartwich, 2009, p. 18).

The group who convened at the Colloquium was divided regarding the extent to which they felt the old liberalism to be abortive. For Rüstow, Lippmann and Rougier, the problem of classical liberalism was self-evident; Mises and Hayek were not so easily convinced. Nevertheless, the participants did agree that the atmosphere was pregnant with the possibility of a new liberal project, and at Rüstow’s recommendation the project was named neoliberalism (Hartwich, 2009, p. 19). At the time of the Colloquium, Rüstow (a former socialist, who later became a proponent of a social market economy) no longer advocated for socialism but liberalism, however “he remained committed to socialism’s goals of reducing social and economic inequalities” (Hartwich, 2009, p. 14). The degeneration of the market economy in Germany had left him dismayed with what he considered an economy that was “heavily cartelised, dependent on subsidies, (and) subject to frequent interventions” (Hartwich, 2009, p. 15). Rüstow did not attribute these problems to big government but saw them as a function of unregulated markets. “He perceived an inevitable tendency of markets to degenerate if left to their own devices while ignoring the pernicious influence of the closed economy” (Hartwich, 2009, p. 15), and was “a fierce critic of leaving free markets to their own devices” (Hartwich, 2009, p. 6).

Ironically Rüstow and his contemporaries were brought together by many of the same concerns that unite anti-neoliberals in a modern context. Hartwich points out that those who claim to promote an anti-neoliberal politic would “be surprised that the alternative to their pet-hate of neoliberalism may be a rediscovery of neoliberalism properly understood” (Hartwich, 2009, p. 5). Certainly the driving agenda behind the Lippman Colloquium was to bring together liberals who sought to check and balance unconstrained markets. Participants of the Colloquium envisioned a third way between capitalism and communism, an idea likely born out of Rüstows admiration for “the economist Franz Oppenheimer, who proclaimed a ‘middle way’ between Marxist socialism and liberal capitalism”
In spite of what brought them together, the Colloquium was not without significant discord. On the one hand, Rüstow found the old liberals like Hayek to be extremists. On the other, Hayek considered Rüstow’s neoliberals to err towards totalitarian socialism, marking a distinction between Rüstow and Lippmann as the ‘true neoliberals’ and Mises and Hayek as the ‘old school liberals’. Rüstow and Lippmann felt state intervention necessary to correct erroneous market structures, whereas Mises and Hayek felt the role of the state should be limited to that of removing barriers to market entry. In time, this divergence became more pronounced and was never fully reconciled. In any case, the type of neoliberalism that emerged from the Colloquium reflected more closely Rüstow’s vision, advocating a social market economy which operated in a regulated environment and under the supervision of a strong state. If neoliberalism as it was imagined by Rüstow had been able to materialise it would indeed have looked terrifically different from the practice of modern economics. It is in the writing of Rüstow that one can find the:

...sketch of an economic order that shows characteristics of both worlds. Usually, such mixed economy systems are described as social-democratic, and maybe this would have been a more appropriate term to use for Rüstow neoliberalism as well. In any case, it is light years away from a free-for-all market economy. In fact, it combines elements of German social romanticism and socialist ideals with a general scepticism of power (Hartwich, 2009, p. 17).

Indeed on some fundamental theoretical points, Rüstow appears to be the counterpoint to modern neoliberalism. He was a strong advocate of government run employment services and temporary wage subsidies funded by high taxes during boom times. He championed the achievement of social equality through the imposition of inheritance tax as a mechanism for redistributing wealth and providing universal education (Hartwich, 2009, p. 18). Perhaps the most startling departure that modern neoliberalism has taken from Rüstow’s original conception is that, “economic questions, ultimately, should not be the priority of his neoliberal project” (Hartwich, 2009, p. 18). Instead, Rüstow:

...insisted that, ‘our neoliberalism differs from paleo-liberalism by not reducing everything to an economic question. On the contrary, we believe that economic affairs must be subordinated under supra-economic matters. In another paper he wrote that ‘the economy must be in a serving position,’ which meant that ‘the economy is therefore people’ and not the other way around (Hartwich, 2009, p. 18).

It was this version of neoliberalism that more or less emerged from the Colloquium.

It was no longer a conception of unrestricted liberty, but a market economy under the guidance of the rules of the state. To quote Rüstow’s seminal 1932 speech, it was the idea of
both a free economy and a strong state (Hatwich, 2009, p. 19).

After World War II, neoliberalism experienced a second wind of sorts. Another gathering of liberal thinkers, this time organised by Hayek, was convened in Mont Pelerin, Switzerland in 1947. Including many of the participants from the Colloque Walt Lippman, and this time joined by the young American economists Milton Friedman, George Stigler and Walter Eucken, the tensions between the old liberals and the new surfaced once again (Hartwich, 2009, p. 21).

Out of Mont Pelerin came a newly formed neoliberal theory which drew on a number of academic perspectives, most notably the Austrian school, the Chicago School, the Freiburg school and Lippmann’s realism. The Austrian School originated in the late 19th and early 20th century in Vienna, predominately a product of the work of Carl Menger, Eugen von Böhm-Bawerk and Friedrich von Wiese, who were principally concerned with the actions of individuals. Many founding concepts of the Austrian School have been incorporated into mainstream economic theory, in particular the subjective theory of value, marginalism in price theory, and the formulation of the economic calculation problem. Where the Austrian School departs from other schools is in its contention that it is the motivations and processes of human action that predetermine the limitations and patterns of the economy, an approach termed ‘methodological individualism’, and later interpreted and retitled by Mises in his 1949 book *Human Action* as praxeology.

The Chicago school of economics refers to a neoclassical school of thought that emerged from the faculty of the University of Chicago. The school promotes minimal government intervention in the market, in particular rejecting all regulation excepting central bank regulation of the money supply. Up until the 1980s the theory was broadly associated with libertarianism, price theory and a rejection of Keynesianism. Post 1980s the theory became increasingly preoccupied with rational expectations, and is credited with the development of the efficient market hypothesis, which has deeply influenced financial markets, and is widely touted as contributing to the financial crisis of 2007-08.

Neoliberalism therefore, is a much splintered, poorly defined and often misinterpreted economic theory. Emerging out of dissatisfaction with classical liberalism, in both representation and practical application, it has departed significantly from its theoretical foundations. Jones notes that:

...neoliberalism is a troubled and elusive concept. It has always been treated on the left as a sort of hated by-word for malevolent globalisation and the imposition of market liberalisation on the developing world. On the right there is a sort of a-historical feeling about neoliberalism which is that neoliberal ideas, the ideas of thinkers like Hayek and Friedman, to the extent that they were influencing the political programs of politicians on the right, so Margaret Thatcher and Ronald Reagan’s administrations at the foremost of that, was actually a sort of triumphant success (Jones, 2012, p. 31).
Representing different ideological positions to different political agents, few modern interpretations of neoliberalism represent coherently the viewpoint of those that gave birth to it. The idea with which neoliberalism is most frequently associated, that markets will self-regulate was founded in the far simpler notion that markets prices are a good vehicle for communicating important information, “grounding the more specific claim that, under competitive conditions, they will include information about optimal efficiency” (Curthoys, 2010, p. 49). The idea of market signals, as it has been reimagined in contemporary form, was likely never meant to assume the importance that it has done. Its origins in Hayek, the idea:

...came to him in the 1930s in the context of the ‘socialist calculation debate,’ a debate in which socialist economists had been challenged by members of the ‘Austrian school’ to explain just how the distribution of labour and goods would be effected in a centrally planned economy. In this debate, Hayek’s insight accorded him a decisive victory (Curthoys, 2010, p. 49).

Hayek’s claim was not a complex one. He asserted that in a competitive market, prices mediate supply and demand by keeping market actors abreast of the relationship between them. Furthermore, this mechanism ensures productivity, as producers are savvy to optimal production costs, in light of the relationship between supply and demand, and by comparison with competitor prices. Sound as this analysis seems:

...it is only a way of understanding how the competitive price mechanism helps coordinate production; it is a long way short of Hayek's later claim that this can function as the internal regulating principal of an entire economic system (Curthoys, 2010, p. 49).

Hayek himself did not coin the term self-regulating markets, but rather referred to a system of ‘spontaneous order’. The logical conclusions drawn from how a market of spontaneous order ought to function are sound, in the instance that the premise is sound to begin with. If the premise is unsound, and markets do not self-regulate, then other components of the theory are also thrown into doubt. If such a market existed, certainly government intervention would interfere with the forces of competition, impeding the happy transference of information through price mechanisms:

...thereby destabilising the alleged system, requiring further intervention, leading to more destabilisation, and so on all the way to the full totalitarian catastrophe....But Hayek had no theoretical foundation for the idea that the market is such a system – it was simply a transformation of his earlier ‘abstraction’ into an ‘absolute’ (Curthoys, 2010, p. 53).

It is this idea, and its subsequent principals (that both labour and money are simply commodities) that have formed the foundational principals upon which the modern neoliberal project has been mounted and justified. The principals include the belief that privatisation is driven by a need to make
enterprises more responsive to the price mechanism, and that the removal of trade barriers and price controls minimalizes interference with the price mechanism. Add to these principals the argument that the:

...labour market is to be deregulated because labour is just another commodity; social welfare is to be pared down to the minimum so as not to inflate the price of labour; currencies are floated and financial markets deregulated because money is just another commodity; tax is to be reformed so it does not interfere with the profitability of enterprises or, by redistributing wealth, with the price of labour (Curthoys, 2010, p. 54).

Indeed Hayek’s most infamous publication, *The Road to Serfdom* (1944), has in many respects, become a manifesto for the right, and it is unlikely that this was Hayek’s ambition for it. Modern interpretations of Hayek’s work frequently disregard his outright rejection of an absolute laissez-faire model, and that he accorded government an important (although limited) role in the provision of ethical constraints on financial markets and public goods.

The reality of these principals, when imposed without consideration of individual country contexts, is that they can distort or even destroy growth. As Costanza observes:

...the 2008 financial meltdown was a result of under regulated markets built on an ideology of free market capitalism and unlimited economic growth. The fundamental problem is that the underlying assumptions of this ideology are not consistent with what we now know about the real state of the world (Costanza, 2010, p. 40).

Even if one was to reach back further, in consideration of the claim of many commentators, that the theoretical basis for modern economics predates the emergence of neoliberalism proper, but can be traced back to classical liberalism as advocated by Adam Smith (specifically to his the conception of man and society), the waters are only muddied further. One of the central arguments of Smith’s *Wealth of Nations* (1882), is that the creation of wealth in the free market economy provides the resources for education and a higher standard of living to counter the negative impact of repetitive work. This foundational rationale has not been canvasses with the same enthusiasm as many of his other popular wisdoms, most notably the phenomenon of self-correcting markets.

Smith contended that “education should not be left to the market alone, and that the State should ensure universal education to provide for broader employment opportunities” (Morgan, 2009, p. 23). Smith advocated for government intervention in the provision of public goods, as in his estimation the market alone could not be relied upon to perform this function. Smith argued that public goods constituted the very fabric of a prosperous society. Neoliberal interpretations of Smith’s economics refer frequently to his ‘free hand’ and neglect his resolute calls for government intervention. According to Morgan (2009), Smith believed that “the state should ensure essential community
requirements not fully met by the free market – a point not generally appreciated by his critics” (p. 23).

Another common misconception is that Smith championed a deregulated financial system. Admittedly he could hardly have imagined the scope and reach of the international banking sector in its present capacity. Nevertheless, in theory he supported a closely monitored and regulated financial sector.

In Smith’s time, only three of thirty private banks in Edinburgh survived the financial crisis in Scotland in 1772. He recognised the risks posed to society by banks and supported regulations to constrain their activities (Morgan, 2009, p. 27).

Indeed Smith was strikingly clear on questions of the liberty and freedom of individuals within the financial sector and the need to carefully balance these with social security, which was in his view, equally, if not more important. In Weald of Nations, Smith noted that:

...such regulations, no doubt, will be considered as in some respect a violation of natural liberty. But those exertions of the natural liberty of a few individuals, which might endanger the security of the whole society, are, and ought to be, restrained by the laws of all governments; of the most free, as well as the most despotical. The obligation of building party walls, in order to prevent the communication of fire, is a violation of natural liberty exactly of the same kind with the regulations of the banking trade which are here proposed (Smith, 1828, p. 84)

Seemingly for Smith, the hidden hand was neither absolute nor fail safe, and he accepted that in the banking sector it failed to operate to the mutual benefit of all parties when left to its own devices, given that self-interest is so frequently disposed to collide with mutual benefit. This reality “has led to the introduction of regulations, such as requiring banks to hold certain proportions of liabilities in capital, designed to protect depositors and the monetary system” (Morgan, 2009, p. 43). Smith was motivated by the understanding that socially vulnerable citizens ought to be protected from harm done against them by other more powerful social groups. He saw government as having “the duty of protecting as far as possible, every member of the society from the injustice or oppression of every other member of it” (Morgan, 2009, p. 83). Smith contended that it was only in a well governed and well-ordered society that free markets operate effectively and in a universally beneficial manner. Emphasising the importance of law, infrastructure, and the adequate provision of public goods, Smith contended that the absence of these elements would precipitate an inevitable deterioration in living standards for the great many, arguing that the absence of order would result in a situation where the “fabric which to raise and support this world...must in a moment crumble to atoms” (Morgan, 2009, p. 48).
Achieving this, for Smith, was about achieving balance. Law must be balanced with free markets, as Smith also warned against the problem of over regulation, or what he called the problem of ‘The Man of System’. This concept in particular resonates with the central tenets of this research.

In Smith’s description of the ‘Man of System’ a curious irony emerges. Smith describes him to be:

...apt to be very wise in his own conceit; and is often so enamoured with the supposed beauty of his own ideal plan of government, that he cannot suffer the smallest deviation from any part of it. He goes on to establish it completely, and in all its complexity, without any regard either to the great interests, or to the strong prejudices which may oppose it. He seems to imagine that he can arrange the different members of a great society with as much ease as the hand arranges the different pieces on a chess-board. He does not consider that in the great chess-board of human society, every single piece has a principal of its own, altogether different from that which the legislature might choose to impress upon it (Smith, 1759, p. VI. II. 42).

The irony of this description is that it could well be applied to describe structural adjustment policy prescriptions imposed upon poor countries by the IMF and World Bank throughout the 1990s. Very little consideration was given to the nuance and context of particular countries or how the policies would impact existing social and cultural norms. In particular, Smith’s description of the ‘Man of System’ arranging members of society as pieces of a chess-board is poignant. Raffer contends that:

...in spite of his great popularity with orthodoxy, even Adam Smith’s advice in his Wealth of Nations was not heeded. He stated that with states, as with private individuals’ fair, open and avowed bankruptcy is always the measure which is both least dishonourable to the debtor, and least hurtful to the creditor.’ The solution may be economically, legally and ethically advised but fails to confer the same power and control to official creditors as present strategies (Raffer, 2012, p. 73).

This brief discussion of neoclassical liberalism, classical liberalism, Hayek, Rüstow and Smith serves not only to connect the economics component of this research to its theoretical foundations, but to emphasise the principal that this research does not seek to dismiss the fundamental tenets or inherent soundness of classical liberalism, neo-classical liberalism, or even neoliberalism in its uncorrupted form, but rather seeks to focus attention to the problem of theory being interpreted in often dubious and extemporized ways.

In recent decades, the discipline of economics has aggressively self-affiliated with the natural sciences. Presenting itself as a mathematical certainty, with complex modelling arrangements and equations, it has distanced itself from the probability that any theory that deals with the nuance and variety of human behaviour can be speculative at best. Moreover, the myth of a neutral economic
science downplays the political nature of economic policy-making and promotes the idea of a technocratic process concerned with universal laws; as Keynes noted in reference to a rivals work “starting from a mistake, a remorseless logician can end up in Bedlam” (Wood, 1994, p. 391).

Thesis Outline


The work of Babb and Chorev (2009) traces the history of the institutions of global economic governance by marking out the trajectory of the General Agreement of Tariffs and Trade (GATT), the World Bank and the International Monetary Fund (IMF), focussing particularly on the significant jurisdictional expansion afforded these institutions since the 1980s, and illuminating the ways in which this has shaped economic policy both within and intra nation states. Babb and Chorev (2009) argue that the groundwork for this continued evolution was laid by the Reagan and Thatcher administrations who, through the promotion and proliferation of a neoliberal political and economic framework, instituted a program of global economic reform. The work of George (1988, 1992, 2004) and Hertz (2004) both offer comprehensive analysis of the origins of unsustainable debt in poor countries, from its reckless beginnings to the mushroom cloud of enslavement that it has become. Both scholars critique the clear power imbalances which have infused the history of debt, along with providing critical analysis of issues such as reckless lending, corruption, and the doctrine of odious debt.

Woods (2001) offers a succinct account of the history of the post-war economy locating the international political economy firmly into the sphere of international relations and offering an in-depth critical analysis of the institutions and forces that drive and shape it. Raffer (2010) also outlines the history of sovereign debt accumulation in the South, illuminating the quintessential role of NGOs and civil society activists as catalysts of progress. Raffer’s breakdown of the technical components of debt, its impact on the achievement of the Millennium Development Goals (MDGs), and possible mechanisms for debtor protection are drawn upon heavily in both the economics and human rights components of this thesis. The work of Dienst (2011) offers an insightful deconstruction of the hegemonic representations of debt that have been deployed to promote austerity as the singular solution to debt crisis. Dienst (2011) contends that in this manner, debt has become a medium for the expression of political consciousness.
In Chapters Two and Three of this thesis I examine the economic aspects of debt, which are deeply interwoven with rapidly evolving narratives on globalization, ideology and neoliberalism in particular. The economic aspects of problem debt are tracked from a number of angles. I examine the neo-classical basis to modern economics and the foundation for the political economic practices that constitute neoliberalism. I argue that this categorisation of neoliberalism as an evolution of neo-classical economic theory is problematic, given that many of the tenets of modern economics do not correlate with neo-classical economic theory, and that neoliberalism itself is difficult to define (Fullbrook, 2006; Colander, 2000). Exploring the data, this research concludes that in countries where structural adjustment policies (or variations of them) have been implemented, economies have stagnated and poverty worsened (Stiglitz, 2002, 2012; Sachs, 2005, 2008; Cheru, 2006, 2007; Krugman, 2009, 2012; McKnight, 2010). Publications by civil society organisations such as the Structural Adjustment Participatory Review International Network (SAPRIN) (2002), Christian Aid (2007), and numerous General Comments and Reports from the Committee on Economic Social and Cultural Rights (CESCR) also inform this component of the research. I conclude that debt default is economically viable, with particular reference to the cases of Iceland, Ecuador and Argentina, and that economic policy approaches such as adjustment and the HIPC Initiatives have failed.

In Chapter Four I examine some of the discussion about the political aspects of debt and debt-workout by examining questions of accountability, transparency, democracy and civil society. These are in one sense inextricably intertwined with the economic issues, although I make some attempt here to separate and compartmentalise them. I draw on the analyses of Ruggie (2004, 2009), Langmore and Fitzgerald (2010), Scholte (2001, 2004, 2007, 2011), McGrew (2001, 2002, 2004), Keohane (2001, 2003), Davis and Carothers (2010) and Gill (1999, 2003, 2012), amongst others. This section of the thesis contends that the democracy, accountability and transparency deficit that pervades the infrastructure and process of intra-state institutions such as the IMF, the World Bank and the WTO mean that political avenues which would traditionally operate to lobby or curtail the actions of those upon who they have the most intrusive impact are not effective. Langmore and Fitzgerald (2010) argue that the effectiveness of international social institutions has lagged behind globalisation. Clusters of global economic power are not sufficiently accountable to adequately consider the well-being of the people upon whom their policies have the most invasive impact. Langmore and Fitzgerald (2010) contend that this is largely because global economic forums do not allow a space for the proper representation of developing and transitional economies. Towards these ends, Scholte (2001, 2004, 2007, 2011) contends that the conventional statist formula of democratic accountability is not sufficient to accommodate current expanded global governance arrangements.

This research accepts McGrew’s (2001, 2002, 2004) concept of a ‘transnational turn’ in relation to what he considers the four possible contemporary re-imaginings of democracy; liberal-internationalism, radical democratic pluralism, cosmopolitanism, and deliberative democracy. For
McGrew, these possibilities go to the heart of the problems and potentials inherent in the concept of transnational democracy, which he finds a difficult proposition. Gill (1999, 2003, 2012) contends that if the challenges of the global financial crisis are to be authentically addressed, more inclusive, effective, and legitimate forms of global governance and global leadership than those that have characterized the neoliberal era must emerge. Keohane (2001, 2003) addresses issues core to institutional theory and international political economy through analysing issues of interdependence, international law and global governance, arguing that globalization requires effective governance, but creating and maintaining effective institutions is problematic. Keohane contends that navigating the terrain between liberal-democratic values and the self-interest of institutions necessitates drawing upon resources from democratic theory, rational-choice institutionalism and historical institutionalism. Davis and Carothers (2010) argue that in spite of widespread suffering brought about by the financial crisis, democracies have proved remarkably resilient, and are more stable than might previously have been supposed. It is therefore the contention of this research that there is significant literature to support the claim that the institutions of global economic governance are not sufficiently transparent, accountable or democratic to function in the manner that they do, wielding the power that they do.

I also argue that dynamic civil society and activist efforts, lobbying for debt cancellation over a thirty year period have had an underwhelming impact. An exploration of this troubled relationship between civil society and debt draws on the analysis of Bond (2006), Birdall and Williamson (2002), Williamson (2002), and Millet and Toussaint (2004, 2010). Bond (2006) offers an animated account of the history of the campaign to cancel debt in poor countries claiming that, in spite of an extraordinarily impressive and sustained campaign, little progress has been made into real debt cancellation for HIPC countries. Bond’s contention is that this lack of progress is deliberate, and he points to exploitative debt and financial relationships between the global North and South, phantom aid, unfair trade agreements, the impact of financial markets, corrupted credit rating agencies and distorted investment in order to make this claim. Millet and Toussaint (2004, 2010) concur with Bond’s assessment that governments of developed economies have systematically and purposefully exploited countries of the South by bullying them into unfair and disadvantageous trade and political relationships. Millet and Toussaint (2004, 2010) contend that the debt apparatus is central to maintaining this strained dynamic, and provide a detailed account of debt accumulation, unsuccessful debt workout, and the campaign to end unsustainable debt.

In this Chapter I argue not only that efforts to resolve the issue of problem debt in poor countries through economic means have failed, but that political mechanisms are implicated in this failure. On the one hand, the issue of unsustainable debt has enjoyed windows of remarkable media attention as a result of extraordinary mobilisations of global civil society championing the issue. On the other, the highly political nature of key institutions (the World Bank and IMF, who have proved to be vigorous
political actors) has highlighted the democracy, accountability and transparency deficit which pervades their infrastructure and processes. IFIs and civil society actors are, broadly speaking, in diametric opposition concerning their perceptions of the root causes of, and possible remedies to, problem debt. This research contends that neither these groups, nor the governments lodged in between them, have proved capable of bringing satisfactory resolution to the issue. Forty years of unprecedented civil society mobilisation on the issue on the one hand and forty years of World Bank and IMF intervention on the other, has not achieved an exit from problem debt for poor countries.

In Chapters Five and Six I examine the role, and perspective value, of a human rights practice and discourse, as a viable mechanism for the re-appropriation of funds intended for debt servicing. I further examine the idea of human rights as “an emergent practice” (Beitz, 2009, p. 127) as so described by Beitz, who argues for a ‘practical’, i.e., political approach to international human rights. I examine Beitz’s human rights approach, which is derived in part from John Rawls’ book *The Law of Peoples* (1993) which focuses on the functional role of human rights in practice. Beitz contends that the primary aim of the discourse and practices of international human rights is to protect the most critical needs of individuals from the actions and omissions of states. In order to progress this objective Beitz envisions what he describes as a two-level model, where a state’s primary interest is to attend to its own citizens and then to intervene where justified in the protection of the rights of citizens of other states. Beitz argues that this practical approach facilitates the development of a concept of human rights that, whilst reliant on current global discursive practices, manages to circumvent problems which arise when attempting to justify a practical approach to human rights by appealing to a prior set of moral ideals. The Beitz model is used in this research as a guide in considering a human rights approach to debt workout mechanisms for poor countries.

I then examine the history of the ICESCR and its various articles, including an exploration of the doctrines of progressive realisation and core obligations, arguing that where signature parties to it are prioritising the debt servicing requirement over meeting core obligations, they contravene it. In this instance it becomes appropriate to direct funds away from debt servicing and into the better achievement of core obligations in the ICESCR.

I also consider the nature of poverty in a global context, the justiciability of economic and social rights and the various frameworks designed to support them. This research draws upon the analysis of the CESCR and its various General Comments, and publications and analysis by organisations such as Associations for Women’s Rights in Development (AWID) (2008) and Christian Aid (2005, 2007). The analysis of poverty and economic and social rights is guided by the work of Pogge (2002, 2005, 2007), who contends that a more just economic system is a moral imperative, and Banerjee and Duflo (2011) whose understanding of agency and poverty contends that the reason many anti-poverty strategies fail is because poverty is in fact not widely understood. I also draw upon the scholarship of Sen (1980).
and Nussbaum (2011), with particular consideration of their capabilities approach to welfare. Furthermore, the OPERA Framework, as designed and promoted by the Centre for Economic and Social Rights (2012) is analysed as a suggested tool for measuring and quantifying violations of economic and social rights. Towards these ends, reports from activist groups such as SAPRIN (2002), a global network established to expand and legitimize the role of civil society in economic policy-making and to strengthen the organized challenge to structural adjustment programs by citizens around the globe, and others such as Christian Aid (2005, 2007) are drawn upon as they provide a balance to the World Bank and IMF publications and data. Similarly, UN publications, especially those by the CESCR, are drawn upon for alternative interpretations of data and policy analysis.
CHAPTER ONE: A HISTORY OF THE DEBT PROBLEM

They that stand high have many blasts to shake them;
And if they fall, they dash themselves to pieces.

Shakespeare, Richard III (liii:259)

For most of July 1944, as the Second World War drew to its exhausted conclusion, American and British policy-makers, led by Britain’s John Maynard Keynes and America’s Harry Dexter White, were joined by some 730 delegates from 42 other allied nations at the Washington Hotel at Bretton Woods in New Hampshire. They gathered to resolve two significant and composite problems which they assumed would loom large in the post war world. Their primary objective was to draw up a blueprint for the future security of international capitalism. Their first and most pressing concern was to prevent a re-occurrence of the Great Depression and its subsequent social devastation. They also sought to embed a greater level of security in the global monetary system and a forge a more open system of world trade. Seeking to harmoniously house competing priorities, these objectives were certainly ambitious. The specific goals to be realised were:

...a stable exchange rate system, a reserve asset or unit of account (such as the gold standard), international capital flows that could be controlled, the availability of short-term loans to countries facing a temporary balance of payments crisis, and rules to keep economies open to trade (Woods, 2001, p. 2).

The practicalities of realising these goals were subject to rigorous debate and negotiation over conflicting ideas of how to best unify the global economy whilst preserving the social and economic commitments of the state that national citizens had grown accustomed to. Though they could not have foreseen it, the architects of the Bretton Woods Agreement were setting in motion policies and political processes that by the 1980s would generate significant ‘debt crises’ in many developing countries.

In this chapter I set out to explain how the debt crisis in the South owes much of its substance to the development of institutions of global economic governance conjured into existence with the agreement at Bretton Woods, and then was subsequently shaped in particular by the oil shocks of the late 1970s and the political economic policy agendas of the Reagan and Thatcher administrations during the 1980s. There is more than one narrative which explains the origins and pivotal junctures of the accumulation of unsustainable debt in the South. I seek to describe both the dominant narrative,
which is not only widely accepted but has a certain linear appeal, and the counter-narrative offered by Raffer (2010), and note that I do not find them necessarily mutually exclusive. It seems perfectly probable that both these accounts have merit and to some extent may have unfolded in tandem.

**Literature Review**

In order to provide a comprehensive literature review it is necessary to consider the scholarship of the three disciplines under consideration. Whilst much of this has been covered in the introductory component of this thesis in the subsection which connects the research questions to each discipline, what has not been covered there is here included.

In response to the crisis of unsustainable debt in poor countries during the 1980s, significant scholarship was undertaken by economists to investigate the relationship between the requirement to service unsustainable debt and the social and economic consequences in of that requirement in heavily indebted countries. Stiglitz and Weiss (1981) considered the ways lenders were limiting the supply of credit to borrowers, even where they were willing to pay higher interest rates (credit rationing), the lack of incentive to guard against risk where one is protected from its consequences (moral hazard), and the ways that decisions are made particularly in financial markets in a situation where one party has more or better information than another (asymmetrical information). Sachs (1984) contended that the problem was institutional, and therefore an effective solution would need to be centralized in nature. In 1985, Kaletsky offered the first detailed cost-benefit analysis of sovereign debt defaults, and later Krugman (1988) contended that resolution to debt crisis would need to consider not only debt forgiveness, but also ways in which economies could be refinanced in order to promote growth and exit unsustainable debt cycles. Sachs (1989) concurred with this analysis, noting that considerations of debt forgiveness should not only include a moral component, but the potential it could bring to enable growth and prosperity for the indebted country thereafter.

The Russian default of 1998 catalysed new scholarship concerned with sovereign debt crisis. Russia regained access to financial capital markets post-crisis more hastily than popular prediction had accounted for, and this propelled economists and political scientists to question the premise that exclusion from capital markets acts as an effective deterrent to default.

More recent scholarship includes Kindleberger and Aliber (2005), who contend that business cycles follow credit cycles. When an outside force or event propels the economy into boom, the funds of venture capitalists and banks magnetically gravitate in that direction. The money generated out of that bubble invariably overflows into other markets (such as real estate) and this sends asset prices,
along with consumer confidence, clamouring upwards, creating unrealistic expectations about the potential for profit in the securities market. A market almost wholly dependent on confidence is a vulnerable one. When confidence wanes, banks that made funds available on favourable terms recall them, borrowers suddenly need to sell assets quickly in order to repay the banks, and asset markets falter along with any other number of markets unwittingly bound to them. What ensues is a collective downward spiral. In this situation credit is hard to come by. In the aftermath of the financial crisis of 2008 credit became virtually obsolete (Kindleberger and Aliber, 2005).

Kindleberger and Aliber (2005) argue that this phenomenon is dangerous because it is contagious. By way of example they refer to the Japanese bubble burst of the 1980s and early 1990s which sent tremors reverberating outwards from Hawaii to Indonesia, Thailand, Mexico and finally the US. In an inexorably globalised world, money appears to be the connective tissue upon which crisis is able to travel. One of the defining characteristics of debt crisis in the South was that it seemed always to be contained, or containable to, the South. The financial crisis of 2007-8 appears to be evidence that the global economic order is now so interconnected that the possibility of quarantining outbreaks of crisis no longer exists. Kindleberger and Aliber suggest that the appropriate response to crisis is to address the problem of moral hazard. The reckless behaviour of banks and financial institutions perceived to be ‘too big to fail’ in the lead up to the financial crisis of 2007-8 is a case in point. This has also been the argument that campaigners for the doctrines of odious and illegitimate debt have for years drawn upon in mounting their arguments for cancellation or repudiation for countries of the South.

In efforts to analyse and explain the financial crisis of 2007-8, a substantial literature considering the nature of debt and debt crisis has emerged. Ferguson’s (2008) analysis of money draws on historical example rather than the compilation of data to support his hypothesis that finance is the singular unifying concept woven throughout all human history. For Ferguson, the bridge to explaining the past and the key to navigating the future is a question of following the money. Making reference to everyone from the Medici Family to the Mesopotamians to illustrate his case, Ferguson contends that innovations in financial strategies and tools have evolved via a process of natural selection. Ferguson argues that financial development is propelled forwards in reaction to environmental changes, reflecting Darwinist tendencies in patterns of creation and destruction. Based on this premise, Ferguson cautions that evolution is a theory defined by bitter-sweet characteristics, not only a story of creation but also of extinction, and it is not yet clear where on that spectrum money markets and tools of financial innovation lie. Nevertheless, Ferguson contends that:

...from ancient Mesopotamia to present-day China [...] the ascent of money has been one of the driving forces behind human progress: a complex process of innovation, intermediation and integration that has been vital as the advance of science or the spread of law in mankind’s escape from the drudgery of subsistence agriculture and the misery of the
For Ferguson, the contemporary climate is cause for concern. He attributes the situation of deep indebtedness in which the U.S now finds itself to be the product of a once sweet relationship with China gone sour. Ferguson goes as far as to imagine the economic alliance between China and America as having birthed what he christens the state of ‘Chimerica’. In the lead up to the financial crisis America borrowed excessively from China in order to fund its seemingly limitless capacity to consume. In a happy juxtaposition, the Chinese (both households and corporations) simultaneously proved fastidious savers. Given that much of what America consumed was manufactured in China, and given that China tended to reinvest its surplus dollars back into Wall Street, for a while the relationship paid dividends all round. Since the financial crisis of 2007-8 however, things have turned frosty. America, now deeply indebted to China, has become the weaker and more vulnerable element in the Chimerican equation.

Perhaps in explaining the debt crisis in the U.S, Ferguson offers something interesting, but he sets himself up conscientiously against anti-globalisation commentators such as Klien (2007), Stiglitz (2005) and Krugman (2013) who have presented nuanced and sophisticated analyses of the causes and complexities of debt accumulation. Nor does he concede IMF or World Bank involvement in fostering crisis, and at least as far as the story of problem debt in the South is concerned, this is not an acceptable assessment. Furthermore, Ferguson’s explanation for crisis does not particularly engage with the theoretical foundations of crisis as they are understood within the discipline, and this is problematic given the methodology, analysis and conclusions of this research.

In an extraordinary piece of research in 2011, Reinhart and Rogoff\(^\text{11}\) compiled all available data

\(^{11}\) It should be noted that there is significant controversy around the work of Reinhart and Rogoff stemming from a paper published in 2010, *Growth In a Time of Debt*, in which they made the claim that:

…whereas the link between growth and debt seems relatively weak at ‘normal’ debt levels, median growth rates for countries with public debt over roughly 90 percent of GDP are about one percent lower than otherwise; (mean) growth rates are several percent lower (2010, p. 575).

These results were interpreted into the text of their book *This Time Is Different*, which was referred to by political advocates of austerity as a mechanism for managing debt.

A paper by Herndon, Ash, and Pollin (2013) from the University of Massachusetts, recreated Reinhart and Rogoff’s results and found that they had arrived at their conclusion via not only a coding error but “selective exclusion of available data” and “unconventional weighting of summary statistics” (2013, para 3).

In response to this, Reinhart and Rogoff defended themselves against these allegations, noting that they have been in an ongoing process of growing data, periodically revising their conclusions as new data is compiled. Writing in the Wall Street Journal in a 2012, they found GDP growth rates of 2.4 percent for economies with government debt over 90 percent of GDP, close to the 2.2 percent
spanning eight centuries of government debt default from across the globe. Wherever possible they also compiled data on inflations rates, banking crisis and international capital flows stretching back two centuries. Reinhart and Rogoff (2011) argue that debt crisis can be explained by noting the patterns that become evident in the data, which suggests cycles that are repetitive and obvious; the boom/bust nature of the market repeats itself in perpetuity. They therefore contend that it is the predictability of crisis that is perhaps its most consistent feature; this time is invariably the very same as last time as it turns out.

Reinhart and Rogoff (2011) argue that financial crises usually follow real estate bubbles, rising debt and deeper current account deficits. These characteristics proved a feature not only of the 2007-8 crisis, but of all crises stretching back as far as available data can see. Given this, they contend that predicting the future is an exercise in pattern recognition. If real estate bubbles are usually the precursor to banking crisis, and financial sector losses typically precede cuts to government expenditure as a result of the cost of bail-out packages and losses in tax revenue, and if a rapid decline in output after a bust is followed by a long and protracted recovery, then the Reinhart and Rogoff prescription for lifting an economy out of crisis is a question of drawing on an eclectic mix of tools to address these concerns. They argue that governments need to write down their debts, allow inflation to rise slightly, implement structural reforms, and, at the very least, find a middle way between austerity and stimulus. Reinhart and Rogoff contend that debt crisis is predictable, but the prescription for lifting economies out of it is nevertheless decidedly complex, and indeed they look to the future with much trepidation, warning of a continued debt and inflation crises to come.

calculated by Herndon, Ash, and Pollin who, it should be noted, have not found no correlation between high debt and low growth but rather a weaker correlation than Reinhart and Rogoff established in 2010, and more or less the same as they found in 2012. Herndon, Ash and Pollin note that:

...if debt is below 30 percent GDP growth comes in at 4.2 percent, if debt is between 30 percent and 60 percent of GDP growth comes in at 3.1 percent, if debt is between 60 percent and 90 percent of GDP growth comes in at 3.2 percent, and if debt is over 90 percent of GDP growth comes in at 2.2 percent (2013, para 7).

Therefore higher debt is still correlated with lower GDP growth.

Reinhart and Rogoff agreed to the coding error but did not concede the accusation of the “selective exclusion of available data” or “unconventional weighting of summary statistics”. It is the position of this research that exposing the coding error is Reinhart and Rogoff’s work does not satisfactorily debunk the considerable economic literature that demonstrates clear mechanisms via which it can be expected that high public debts result in lower growth. Cecchetti et-al (2011) for example, identified a debt to GDP threshold of 85% as a point which when past usually results in lower annual growth and therefore it is appropriate to refer to their substantial body of work in the literature review, although it will not form the foundations of any of the arguments of this research. In any case, given the argument of this research is to cancel, or reappropriate debt, the conflict seems to be a moot point.
The explanations of debt and financial crisis that have emerged in recent years from the contemporary economists are essential to consider in any analysis of debt and debt workout. It is the argument of this research however that the question of problem debt in poor countries cannot be understood only in terms of cyclical credit and business cycles or real estate bubbles, but that there are a number of explanations for debt crisis and none have the monopoly on truth. Reinhart and Rogoff for example, do not address the role played by monetary policy, international exchange rate regimes and the dollar standard, nor does Ferguson concede the hegemonic nature of the institutions of global economic governance.

Legal scholars have approached problem debt primarily by focussing on odious debt. This scholarship is intertwined with analysis of lending policies, the legitimacy of debt regimes, the international law of contracts, and the way the odious debt doctrine has been articulated in international law and interpreted through the courts and other arms of the judiciary.

Historically, the concept of odious debt is most often associated with the work of Nahum Sack (1927), who identified three categories of odious debts. Briefly, these categories were regime debts (where a despotic regime contracts a debt in order to reinforce its own regime rather than advance the interests of the state), subjugation debts (where the government contracts debts with the view to subjugating some part of the population), and war debts (where the government contracts debts to facilitate the waging of war). Sack’s categorisation of debt in these ways has directed the treatment of the topic in subsequent legal scholarship which has considered amongst other things, the relationship between odious debt and democracy, and the possibility of using the doctrine of odious debt to block loans to anti-democratic regimes (Jayachandran & Kremer 2006, pp. 82-92).

These interpretations of the odious debt doctrine tie in with developments in political scholarship, which explore the relationship between sovereign debt and regime type and contend that democracies enjoy lower borrowing costs than non-democratic states (North & Weingast, 1989, pp. 803-833). This is argued to be a result of the limitations that democratic institutions place on government, which incentivise them to respect agreements. Schultz and Weingast (2003, pp. 3-42) give an institutional account for why democratic states have an advantage in borrowing and a lower likelihood of default than non-democratic counterparts, arguing that democracies are able to borrow far greater sums at lower rates as a result of having representative institutions, which presumably make it easier for those who would be affected by a failure to repay, to hold the sovereign accountable in the event of defaults.

As indicated in the introduction, this thesis uses a critical interpretive research methodology, therefore one of the central aims of the research is social critique. It does not concede one, or a few narratives of debt crisis as ultimately or exclusively true, but rather places the accumulation of unsustainable debt in the South in the context of the way patterns of structural inequality have
manifest globally since the 1970s, and indeed in the centuries previous to that. Towards these ends, this research explores the ways in which ideology has functioned to suppress and contort social processes, and how the institutions of global economic governance have contrived to legitimate that which is accepted as the standard, particularly with regards the norms of economic policy practice.

Furthermore, given that this research is a combination of the critical and interpretive approach, it seeks to explore conventional understandings of social and organisational approaches to the accumulation and management of unsustainable debt in poor countries. It is therefore important to consider the context in which debt in poor countries has been amassed and how the conditions of the global political economy create a repetitive loop of debt distress in poor countries in particular. After all, the history of debt accumulation is both an economic problem and a product of political relationships and agency; how economic theory is interpreted and translated into public policy is an explicitly political exercise. This research seeks to show where the accumulation of problem debt in poor countries is lodged in the nexus between political history and economic theory, and therefore understanding the trajectory of institutions and ideology since the Bretton Woods Agreement is central.

The Bretton Woods Agreement

In the finalised Bretton Woods Agreement, two central organisations, the IMF and the International Bank for Reconstruction and Development (IBRD) were established, and the International Trade Organisation (ITO) was proposed, although not agreed to. The role of these institutions was to both negotiate the removal of the economic barriers that preceded the onset of the Great Depression and maintain a level of economic stability globally. The IMF would ideally facilitate a stable exchange rate regime and also disperse emergency assistance to countries facing a temporary crisis in their balance of payments, a measure designed to fend off possible outbreaks of international economic crises at the pass. Exchange rates were anchored to a dollar-gold standard. The IBRD and the International Development Association (IDA), known as the World Bank, housed the twin responsibility of facilitating private investment and reconstruction in Europe and assisting development in other countries (Woods, 2001, p. 3).

When it was established, the ITO was conceived of as an organisation that would help states negotiate a reduction of trade barriers. The Charter of the ITO was delicately pieced together to encourage greater economic openness without overtly compromising domestic sovereignty. As on so many other occasions, when it came to international treaties and conventions, the U.S Congress found it too intrusive to ratify. Despite efforts to strike a functional balance “protectionists found the
internationalist provisions unacceptable, at the same time that internationalists found the domestic compromises too constraining” (Babb & Chorev, 2009, p. 11). The failure of the ITO left signatory parties with what had originally been devised as a temporary arrangement, the General Agreement on Trade and Tariffs (GATT). Signed in 1947, the GATT committed nations to some of the ITO provisions (most notably a commitment to reduce tariffs) and it was essentially more liberal but less powerful than the ITO would have been (Babb & Chorev, 2009, p. 12).

These three institutions were intended to foster a more open international economy, whilst making a concerted effort to avoid frustrating the freedom or ability of national governments to intervene in their individual economies by establishing welfare states capable of acquiring income security for their citizens and protecting national industries.

In June 1947 the U.S announced the European Recovery Programme, later to become known as the Marshall Plan, as a channel for large aid flows into Europe attached to U.S conditions. The dollar standard supplanted the gold standard and “unsurprisingly, by the time the IMF, the World Bank, and The GATT began to function in the 1950’s, they were distinctly Western bloc organisations which depended heavily on the United States” (Woods, 2001, p. 3). As cracks started to appear in the U.S economy however, domestic support for the Bretton Woods system began to waver. The exorbitant cost of military involvement in Vietnam coupled with President Johnson’s increased social spending as part of the Great Society dealt a significant blow to the happy prosperity of the U.S economy. Prices rose and the competitiveness of U.S goods and services in the world economy plummeted, taking confidence in the U.S dollar with it. Exacerbating this, other economies previously thought of as shaky, began to flourish and prosper. By the 1960s, Europe and its allies were enjoying the upswing of more comprehensive economic integration and gradually the more coherently incorporated European Community began to apostate from the U.S position, mirroring a changing mood also sweeping Asia. “The phenomenal success of export-led growth in Japan and in newly industrializing countries such as South Korea and Taiwan created a new challenge to U.S trade competitiveness, and a new agenda for trade negotiations” (Woods, 2001, p. 3).

In response to mounting pressures, in 1971 the U.S government ceased conversion of the U.S dollar to gold and imposed a 10% surcharge on import duties, “to improve trade balance by curtailing imports which were flooding into the U.S, and to try to stem the outflow of dollars to the rest of the world” (Woods, 2001, p. 4). This development flagged the beginning of a tumultuous and uncertain decade for the global economy as multiple developments in and between regions and institutions unfolded simultaneously. The period of high growth that had defined international economics since the end of World War II ended abruptly, leaving a nasty high inflation hangover in its wake. The first oil shock which immediately followed the Arab-Israeli War of 1973 magnified the problem, precipitating the onset of widespread stagflation. The role of the IMF began to appear increasingly
negligible as the major industrialised countries failed to find a way to co-ordinate their exchange rate policies within the IMF framework. Instead the major currencies floated and industrialised countries began to group together to nut-out monetary issues among themselves. The Group of Six (G6) began to take shape, strengthening dialogue between the U.S, Japan, Germany, the U.K, France, Italy and with the inclusion of Canada it became the G7. They first met in 1975 (Woods, 2001, pp. 4-5).

A number of factors contributed to the volatility and upheaval which characterised the 1970s. The involvement of the U.S in an increasingly unpopular war in Vietnam gave rise to doubts about their ability combat what was, at that time, considered the looming threat of communism. Increasingly competitive manufacturing firms off-shore fuelled persistent balance-of-payments deficits, which the U.S attempted to counter by devaluing the dollar, drawing down the curtain on the era of fixed exchange rates. Decline in economic growth was compounded by consistently rising inflation triggered by the oil shocks of 1973 and 1979. When Paul Volker was appointed to Chairman of the Federal Reserve in 1979, it “marked the beginning of an aggressive, orthodox campaign against inflation that induced a recession in the United States, and had enormous direct and indirect implications for economies around the world” (Babb & Chorev, 2009, p. 17). Global interest rates climbed rapidly as a result of tighter monetary policy, which ultimately facilitated an economic slowdown that bled out to all corners of the globe, culminating in the outbreak of the third world debt crisis in 1982.

Amongst all this upheaval, post-war international economic institutions suddenly seemed out-dated. The GATT failed to reflect growing global support for protectionist sentiments, resurgent in the face of slowed economic growth and rising unemployment. The GATT was in any case, relatively powerless when confronted with increased protectionist practices. For the most part such measures did not fall under GATT jurisdiction, or when they did, “loopholes in the trade agreements were abused and existing obligations were easily violated, because existing enforcement was too weak to impose compliance” (Babb & Chorev, 2009 p, 17).

A concerted effort to address these concerns was made at the Tokyo Round of GATT negotiations held between 1970 and 1973. A total of six signed agreements pushed out the jurisdiction of GATT from not simply tariff, but also non-tariff barriers to trade. The new agreements covered things such as import licensing procedures, customs valuation, dumping, subsidies and anti-subsidy measures, government procurement rules, and technical barriers. These agreements were designed to further ensure that domestic laws and regulations could not be used as proxy barriers to trade, however they were formed on a voluntary basis and ultimately became a method by which developed countries could exclude developing countries from the negotiation table.

The GATT was only ever intended to be a gap-stop on the path to a more permanent arrangement however arriving at a more concrete agreement took some four decades. During that time GATT had
proved a somewhat useful forum in which trade negotiations could take place via rounds of talks, the most notable of which was the Kennedy Round held from 1962-67, during which industrialised countries agreed to significant reductions in trade barriers. “The GATT also functioned as a forum for dispute settlement (i.e. upholding trade rules); however it was both slow and impotent in this regard, constrained by the need for consensus on any decision regarding disputes” (Woods, 2001, p. 5).

Developing countries, already agitated by their relative exclusion from the institutions of global economic governance became further aggrieved by the growth of new protectionism in industrialised countries. In the 1970s, in an expression of disgruntlement, the New International Economic Order (NIEO) campaign was launched in the United Nations General Assembly. Efforts by developing countries to force entry into the corridors of power were galvanised by the success of OPEC oil-producing developing countries raising the price of oil in 1973. The NIEO umbrella sheltered a multitude of issues, including:

...better representation in international economic institutions, a fairer trading system, more aid, the regulation of foreign investment, the protection of economic sovereignty, and reforms to ensure a more stable and equitable financial and monetary system (Woods, 2001, p. 5).

In reality, the United Nations General Assembly, whilst recognising that since decolonisation developing countries had come to represent a majority, had no authority by which to demand that their objectives be met. Furthermore, sympathetic sentiments towards the complaints of developing countries, somewhat prevalent during the 1970s, evaporated in the early 1980s as a reflection of ideological and governmental changes in the U.S, U.K and West Germany (Woods, 2001, p. 6).

Industrialised countries responded to the demands of the NIEO campaign largely by ignoring them and formulating agreements that excluded developing countries, or at the very least that they were not forced to sign, indeed the vast majority of countries in the global South refused outright to sign. “Despite the successes of the Tokyo Round, few non-tariff barriers to trade were effectively dismantled. The early 1980s therefore witnessed the lowest moment of the legitimacy of GATT, which was widely seen as failing or even dead” (Babb & Chorev, 2009, p. 18).

During this same period, the IMF attempted to keep its shaky footing on rapidly disappearing ground. Given that the original purpose of the IMF (to manage a system of fixed exchange rates) had disappeared in August 1971, when President Nixon announced a temporary suspension of the convertibility of the U.S dollar to gold, the institution began to seem extraneous.

As the 1970s wore on, oil-exporting nations acquired significant capital surpluses and this, coupled with high inflation and low returns in the developed world led to “the explosive growth of bank lending to developing countries” (Babb & Chorev, 2009, p. 19). In 1973, the price of oil was sent sky
rocketing by 400 per cent almost overnight. Oil producers found themselves with literally more money than they could spend. The mostly Arab beneficiaries of petro-dollars, constrained by the doctrines of Sharia law (which expressly forbade usury including earning interest from money in Arab banks) sought to invest their money elsewhere, and western banks enthusiastically obliged. The purchasing power accumulated in OPEC countries could not be absorbed by them, meaning they were unable to straight away invest in domestic industrial projects. The OPEC countries typically deposited their oil receipts in dollar accounts located outside the U.S, which came to be known as euro dollar deposits. How to mobilize this huge euro-dollar deposits for global growth became the problem of oil-dollar recycling. “The banks actively sought out new lending targets in the developing world, especially those places where they felt there was an opportunity to establish a close relationship with a burgeoning economy” (Hertz, 2004, p. 59). Hertz contends that:

...throughout most of the 1970s, a host of banks – large banks (Chase, Citicorp, First Chicago, JP Morgan, Lloyds, Union Bank of Switzerland, the Banks of Montreal, Tokyo, Japan, and the French Banque National de Paris) and small rural banks too – lined up indiscriminately to push their loans onto developing countries (Hertz, 2004, p. 58).

Supporting the ambition of western banks to loan, financial institutions applauded the eagerness with which governments of the South borrowed from private banks, and "with the World Bank preaching 'the doctrine of debt as the path towards accelerated development'” (Hertz, 2010, p. 61) debt levels in developing economies exploded:

Between 1974 and 1982, the external debt of Argentina Brazil, Chile, Mexico and Venezuela grew by $252 billion (most of which was owed to banks); about a third of that money went to buy real estate abroad and into offshore personal bank accounts (Hertz, 2004, p. 62).

The question of reckless lending, or indeed any ethical dimension to this massive transfer of funds from North to South was not addressed by Northern governments or financial institutions. To whom the money was going and for what purpose was scarcely considered, nor was the likelihood of repayment. According to Hertz, “investigations the banks carried out before they made their loans ranged from the minimal to the actively negligent” (2004, p. 63). Issues of economic mismanagement, corruption, widespread and brazen human rights violations and even genocide were steadfastly ignored and “once again, dictators, tyrants, and military juntas were bankrolled by Western money” (Hertz, 2004, p. 63). Latin America is a particularly instructive case in this regard, as are Africa and Asia, where ruthless despots also profited from ostensibly limitless financing:

In Argentina, the debt contracted by the military dictatorship between 1976 and 1983 (the vast majority of which was commercial) went from $7.9 billion up to $45.1 billion, with half of the money lent by commercial banks between 1976 and 1983 remaining abroad, often with the
knowledge of the lending banks themselves. In Brazil, it was also the military that contracted most of the roaring commercial debt – jumping from $3.9 billion in 1968 to $48 billion in 1978. In the 1970s Africa, the corrupt Mobutu ran up $579 million of commercial debt (Hertz, 2004, p. 63).

The most widely accepted narrative regarding the initial causes of debt crisis in the global South cites the oil shocks of the 1970s as the catalyst for an excess liquidity problem in the West, which prompted banks to funnel credit into developing economies, however Raffer contends that this is a simplistic view of events:

\[\text{...if doubtful loans had not been urged on Southern Countries, excess supply would have driven interest rates down towards an equilibrium allowing investments that were profitable under actual interest rates. The assumption that sovereign debtors can at most become illiquid, but not insolvent, and the knowledge that their claims would be protected against the market by Northern governments, on which the commercial disobeying the most elementary rules of banking operated during the 1970s, led to massive misallocation of resources (Raffer, 2010, p. 8).}\]

Raffer contends that the opportunistic behaviour of Northern banks was a response to rules of global economic governance that are far more conducive to the self-interested behaviour of banks in the North than governments in the South. He further argues that:

\[\text{...economically, bank behaviour was perfectly rational – a clear case of moral hazard, produced by OECD governments. Banks apparently charged what they could get and lent as much as they could, being very annoyed when Columbia, a prudent borrower, refused to borrow money that she did not need (Raffer, 2010, p. 9).}\]

Raffer maintains that it is the behaviour of banks, acting as rational self-interested actors seeking to maximise profit wherever possible, rather than the oil shocks, that was the genesis of crisis\(^{12}\). In the current climate, this distinction is significant, as it focuses attention on the catastrophic potential of unregulated banking and financial markets. Raffer supports his claims with an analysis of terms-of-

\[\text{\footnote{Raffer also contends that the beginnings of problem debt accumulation can be traced as far back as the 1960s. In support of this claim, Raffer makes reference to the Pearson Report, released in 1969:}}\]

G. Abbott saw the roots of the debt crisis in sub-Saharan Africa in the 1960s, when foreign debts began to accumulate faster than economies or foreign exchange earnings were growing. Defining insolvency rather than illiquidity as the problem, he proposed (like the Pearson report) debt cancellation ten years before the official start of the debt crisis (Raffer, 2010, p. 9).

This allegation is troubling, as it stretches the duration of the crisis from almost forty to almost fifty years long.
trade changes and interest-rate rises, which he argues were significantly more damaging than the impact of oil:

Of the total increase of current account deficits of non-oil SCs [Southern Countries] ($66 billion for 1978-81), $18 billion was caused by oil trade. $24 billion by net interest payments and $21 billion were traced to terms of trade changes. In spite of the 'second oil crisis' the impact of interest rates was 1.33 times the impact of oil (Raffer, 2010, p. 11).

By the time that Reagan broke into his presidential stride in 1982, the relevance and usefulness of IFIs came under serious scrutiny, however as the debt crisis in the South continued to snowball, these institutions were tolerated as a necessary evil. Between the years of 1980 to 1982, debtors experienced soaring interest rates in tandem with falling income. Previous to this, new loans were extended to debtors on a continual basis to facilitate the debt-servicing imperative, however the Mexican crash signalled a contraction in associated bank lending:

Between 1982 and 1984 the stock of syndicated loans outstanding was reduced by nearly 25 per cent. With the exception of East Asia 'spontaneous' lending ceased. 'Concerted' or 'involuntary' lending occurred in conjunction with debt restructuring. No bank was willing to increase its share in total exposure (Raffer, 2010, p. 12).

Reinhart and Rogoff (2009, p. 18) contend that the collapse of global commodity prices in the order of around 70 per cent triggered Mexico's default on external debt repayments, followed soon after by defaults involving Argentina, Brazil, Nigeria and the Philippines and Turkey.

The IMF (managed initially by the Paris Club with the IMF as the administrator of its deals) was identified as the most likely candidate to manage the crisis away from the possibility of widespread default. Assuming its new role with gusto, it acted as negotiator between debtors and creditors and dangled international bailout funds like the proverbial carrot and stick. Late in 1982, the IMF announced that unless private banks were willing to pitch in, they would go without bailout funds. Echoing this approach, the chairman of the Federal Reserve spoke of new programs of co-ordinated lending. Of this situation Bab and Chorev (2009) note that:

Debtor governments that had previously spurned the IMF in favour of easy credit were suddenly forced back to the Fund: the average number of IMF programs per year was more than 50 per cent higher in the 80s than it had been in the 1970s (p. 22).

What became immediately obvious was that the role of the IMF as mediator between banks and debtor countries was not to be an impartial one.

Rather than punishing or even chastising the banks for their role in the debt crisis, or safeguarding the developing countries interests during the process, the Bank and the Fund
made it clear that as far as they were concerned it was all about saving the Banks (Hertz, 2004, p. 68).

This presented an irresistible opportunity for countries of the South to avail of loan opportunities that promised beguilingly low interest rates, and so the IMF became:

...a tool in the hands of the U.S. Treasury, not only to forestall widespread default, but also to serve a completely new purpose: the promotion of market liberalizing policy reforms in developing countries (Babb & Chorev, 2009, p. 19).

Similarly the GATT increasingly found itself in the role of gatekeeper, flinging open the door for U.S business to access foreign markets. This strategic move by the Reagan administration was perceived as the only way in which the U.S could resolve its trade deficit problem. Prior to the crisis, both GATT, the World Bank and the IMF had, by and large, lost their raison d’être. At a cross-road, the institutions faced reformation or extinction. The Reagan administration chose not to dismantle them but instead infused them with new purpose; that of fortifying neoliberal policies at home and facilitating their outward expansion globally.

In this sense, the Reagan administration launched a new era of global economic governance which saw the IMF, the World Bank and the GATT depart significantly from their original purpose and mandate. Their boundaries became wider and looser, and their capacity to intervene in national economies strengthened significantly as a result. Raffer argues that:

...the BWIs skilfully used this crisis to increase their importance dramatically. After the demise of the Bretton Woods system economic reason would have suggested dissolving its supporting mechanisms, the IMF too. The debt crisis proved a unique chance to find a new justification for its existence as a debt manager (Raffer, 2010, p. 14).

This expanded capacity of the IMF to exert influence over the policy directions of debtor governments, further facilitated by the reality that they had become not only the executor of international bailout loans but private resources as well, was a development that the Reagan administration exploited to its best advantage, persistently championing the use of the IMF and the multilateral development banks as enablers of free-market reforms in the global South.

In 1982, a report issued by the U.S Treasury concluded that:

U.S support for the [multilateral development banks] should be designed to encourage adherence to free and open markets, emphasis on the private sector as a vehicle for growth, minimal government involvement, and assistance to the needy who are willing to help themselves (Babb & Chorev, 2009, p. 22).
In 1985, U.S Treasury Secretary James Baker introduced the Baker Plan which outlined a three pronged approach to debt reduction. Conditions attached to loans primarily consisted of privatizing public enterprise, liberalizing domestic capital markets, fostering fertile conditions for foreign investment, and trade liberalization. The Baker Plan presumed that the problem was not the sustainability or legitimacy of debt, but merely a temporary lack of liquidity which could be resolved through restructuring and rescheduling measures. For this reason, the Baker plan consisted of a veritable menu of debt consolidation, diversification or repayment options, including debt-for-equity swaps, debt-for-debt swaps and cash buy backs amongst others. “What it didn’t do was cancel or relieve much of the debt itself” (Hertz, 2004, p. 70).

The Neoliberal Moment

In retrospect, the Baker Plan represented a watershed moment in the trajectory of international economic governance, completely altering the role played by IFIs by bringing the IMF and the World Bank into a collaborative relationship. Both institutions based lending on common policy conditions and pressed upon borrower countries plans to remodel the infrastructure of national economies. The World Bank’s lending conditions became more rigorous and the IMF became more deeply entrenched in designing and implementing the reforms that the World Bank was advocating for. By 1987, and with the introduction of SAPs, which specifically and explicitly promoted free-market reforms, the Reagan administration had successfully kicked off a lamentable movement that continued to flourish throughout both the Bush and Clinton presidencies.

Structural adjustment was the policy title given to measures introduced to reduce inflation and government expenditure and to significantly curb the role of the government in the economy in general, by insisting upon trade liberalisation, privatisation, and deregulation. The implementation of these neoliberal policies was an affront to the Keynesian perspective which had informed economic policy in industrialised countries until the 1980s, and had produced decades of economic growth. During this same period, economic policy in the global South had been informed by a developmentalist model. The crux of both the Keynesian and developmentalist models was a reasonably laissez-faire expectation of international organisations, which were careful not to intervene in any dramatic sense with the policy prescriptions of national governments:

In contrast, the more laissez-faire national economic policies that characterise the neoliberal regime are complemented by enhanced regulatory and supervisory interventionism at the international level (Babb & Chorev, 2009, p. 5).
The policy agenda of structural adjustment was overwhelmingly pre-occupied with a roll back of the state and a more passive, less interventionist government. Decisions about distribution and production in the economy were declared to be the remit of markets, not governments. As the 1980s drew to a close, the term ‘Washington Consensus’, which came to describe specific economic reform policies for countries of the global South, began to crop up with increasing frequency, and often disparagingly, inferring that the policies to which it referred were designed to progress U.S interests rather than the interests of those they were purporting to assist.

In summary, the institutions that were created in the post-Second World War Bretton Woods Conference still stood at the end of the cold war, however so transformed were they, and so different their role in the world, that they were barely recognisable. The World Bank had become a loan extending development agency and the GATT had “failed to stem the new protectionism of the 1970s or to meet the aspirations of developing countries” (Woods, 2002, p. 6). What is particularly interesting to note, is that neither the IMF nor the GATT had any mentionable impact on national economic governance in their formative years; their influence was limited and their objectives both stipulated and controlled. This makes the interventionist transformation of these institutions even more remarkable.

A number of problems have arisen as a result of this development. The most frequently cited (George, 1998, 2002, Raffer, 2011, Stiglitz, 2002) is that IMF lending came with demanding and intrusive conditions. Likewise, the GATT and the WTO also required that member states submit to a litany of obligations. These conditions and obligations impacted deeply upon the capacity of national governments to implement independent economic, social and industrial policy. Compounding this intrusion was the substantial refurbishment of enforcement mechanisms at both the GATT and the WTO, empowering them with greater authoritative clout. These developments in the role and behaviour of international organisations raise important and complex questions not convivial to simple answers. “Not only has the number of international organisations radically proliferated, but international organisations in existence for decades have expanded their roles substantially, acquiring broader powers and responsibilities” (Babb & Chorev, 2009, p 5). The rate at which these organisations have acquired new powers has not been tempered by parallel developments in accountability and transparency mechanisms and this is contentious.

In particular, the overhaul of the international trade regime has been impressive. As far back as the 1980s, Blackhurst (1981), then a highly regarded GATT economist, noted that international trade negotiations had begun to “migrate away from a concern with broader measures, toward any policy, no matter what the instrument or where it was applied, which had an ‘important’ impact on international trade flows” (Ruggie, 2004, p. 7). A prime example of this can be found in the late 1980s and early 1990s when U.S/Japan trade wars, triggered by the U.S in response to a perception that
Japan was benefiting from an unfair trade advantage courtesy of its internal economic structures, and (most bizarrely) its cultural practices. The motivation behind this new preoccupation with all policies which impacted international trade was self-evident. “As successive trade rounds progressively dismantled point-of-entry barriers, the likelihood of ‘internal’ factors having an impact on ‘external’ relations inevitably increases. So the trade regime began to extend vertically” (Ruggie, 2004, p. 7).

When the WTO was established in January 1995, it altered the scope and power of the international regulation of trade. Member states of the WTO are subject to a number of demands; states must submit to be bound by a system of rules over the long term, not just for the period in which they avail of a loan (in contrast to the IMF and the World Bank). A state’s capacity to extricate itself from a WTO agreement is nigh impossible, as even a temporary withdrawal requires an appeal or waiver. “Where a country violates a rule, the WTO can legitimize retaliation against that member unless all members consensually agree to veto a decision of Disputes Settlement Body (DSB)” (Woods & Naikar, 2001, p. 570). In this sense, the WTO was created with a far greater capacity to enforce rules than had ever been afforded its predecessor the GATT, and moreover the substance of the rules being enforced allowed for a more intrusive reach.

For GATT then, the road to full maturity was somewhat more arduous when compared with the IMF. Whilst the IMF imposed the rules of developed countries on the South, international trade agreements were not selective in their application and required that all countries adhere to the rules, which impacted upon groups of robust political character in the North as well. Reformation of the GATT therefore was the result of a long drawn-out and gruelling political process, marred by conflict and compromise both from within and between developed countries. This process has had a significant impact on fashioning a WTO that is inherently less ideologically orthodox than the IMF. Great lengths have been taken to protect the interests of flailing industries in the U.S and Europe. The textile trade for example was exempt from the requirements of trade-liberalisation until as late as 2005 and thus far, most prosperous developed countries have managed to protect their agricultural subsidies. “The IMF, in contrast, has been much more consistently doctrinaire in its application of neoliberal rules; it is a much purer artefact of ideological globalization” (Babb & Chorev, 2009, p. 21).

The transformations taking place within these institutions unfolded differently for two reasons. The first was that while both organisations followed the path set out for them post World War II, the IMF had always been the more constrained of the two, continuing for the most part unchanged since the early 1950’s. The GATT on the other hand, had remained an organisation driven by its members. Its rules had been formed incrementally via a process of negotiation. The organisations also differed in the level to which they felt compelled to respond to external political pressures. The IMF was predominantly controlled by the U.S and the rules and regulations that it imposed had very little impact on the developed countries. Consequently it was not forced to stare down any serious political
backlash at home when the Reagan administration set about implementing changes. The U.S was benefiting from greater access to markets and investment opportunities in the South, without having to bear the financial cost of IMF and World Bank reforms. Reagan’s policy prescriptions for the South were not widely criticised at home, but were rather bolstered by a similar ideological shift taking place in the U.K under the Thatcher government. “Privatizing, downsizing, and deregulating in Africa, Asia, and Latin America posed no short-term political costs for European or Japanese politicians. Thus, other major shareholders made no public show of resistance” (Babb & Chorev, 2009, p. 21).

These developments were certainly no accident. The neoliberal project of the Reagan administration was quite openly an ideological venture. Rather than being spontaneous, or a by-product of changing markets, they were the result of deliberate decision-making and premeditated action by the administration to move into a new ideological space. In a now infamous speech in 1981, Reagan announced his intention to bring the “magic of the marketplace” to countries in the Global South (Babb & Chorev, 2009, p. 22). This movement claimed its founding fathers to be the likes of Smith and Ricardo, and had:

...been developed on the pages of the Wall Street Journal, in right-wing think tanks such as the Heritage and Cato Institutes, and by conservative public intellectuals such as Milton Friedman and Arthur Laffer (Babb & Chorev, 2009, p. 19).

It was the ambition of the Reagan administration to promote the superiority of markets as a practical, and indeed moral tool, of progress and growth. The administration argued that unfettered (or at least minimally interfered with) market forces resulted in dynamic economic growth and the natural promotion of human welfare. The administration regarded itself as heralding in a paradigm shift, reflected in a policy agenda which sought to stimulate growth through lowered taxation for high earning individuals and companies, peeling back welfare protections, de-regulating the financial sector and discouraging labour unions.

The 1990s brought with it a sea-change. The Asian Financial crisis sent shock-waves through the global economy which tinkered on a knife’s-edge of collapse. Foreign investors who had enthusiastically ploughed money into countries like Indonesia and Thailand, caught up in the excited speculation about emerging markets, became nervous as it became obvious that the institutions protecting foreign investment were far less sound than had initially been pre-supposed:

Panicked portfolio investors stampeded out of the country, with devastating consequences for both investors and national governments—with the former suffering from enormously devalued assets, and the latter from economic crisis and enormously devalued currencies (Babb & Chorev, 2009, p. 23)

The U.S government flung itself into crisis management mode as it had done in 1982, and supplied
resources for the bailout. The U.S Treasury stressed the need to reform the instruments of global governance, implying that the focus of the institutions should be to assist foreign investors to make rational and educated decisions. Reforms towards these ends would include the “development of independent judiciaries, bankruptcy law reform, banking regulation, and accounting standards. Markets, in short, could only function with strong institutions” (Babb & Chorev, 2009, p. 24). The U.S further insisted that loans be saddled with conditions that they perceived to advance their cause. Ultimately, supply of funding was dependent on the meeting of good governance expectations, the parameters of which were defined by the U.S. “In its Letter of Intent to the IMF, Indonesia committed to a matrix of more than 100 policy conditions, simultaneously including macroeconomic, market-liberalizing, and ‘governance’ elements” (Babb & Chorev, 2009, p. 24).

The term used to describe reform of the IMF policy agenda (privatization and liberalisation in the early 1990s followed by bankruptcy law and judicial reform in the late 1990s) was structural as opposed to the temporary macroeconomic policy changes that had previously been implemented. This development proved to have implications beyond the purely symbolic. The changes that the IMF promoted at this time were designed to, and in fact did, cut far deeper and endure far longer than any previous macroeconomic policy reforms. Measures included cuts to government spending and to exercise control of the money supply, both which avoided corrupting key institutional arrangement:

In contrast, structural conditionality is oriented toward making deep changes in national economic and legal systems that are much harder to reverse (....) the inclusion of structural reforms as an element of conditionality transformed the IMF from a sort of stern international central banker into an institutional architect for the developing world (Babb & Chorev, 2009, p. 24).

The impact of the cold war on these events was also significant. For the duration of the cold war, the World Bank was used by the U.S as a vehicle of its foreign policy objectives. The World Bank made funds available to countries who broke from the Soviet Bloc, such as the Somoza regime in Nicaragua:

Among loans withheld by the Bank were those to Poland in 1948, because the United States did not want money going to a Communist country, and to Salvador Allemende’s Chile at the time when Richard Nixon had given orders to “make the enemy (Chile) scream” (Hertz, 2004, p. 27).

Under these circumstances, “the lending to Chile resumed a few months after Allende was killed in a military coup” (Hertz, 2004, p. 27). Almost since inception the Bretton Woods Institutions have proved rigorous political actors, however strategic political manoeuvring in complicated times is not always self-evident, as the priorities of neoliberalism were frequently trumped by the Realpolitik of
the cold war. Building alliances to counter the power of the Soviet Union took precedence over other considerations, resulting in the financing of multiple regimes, no matter how ideologically divorced from the Western paradigm, in a quest for the strategic upper-hand:

The Argentinian military junta of the 1970s was lent money by the United States despite the fact that it was known to be 'disappearing' tens of thousands of people during its reign. As Lyndon Johnson famously observed in defence of Washington's support of Ngo Dinh Diem, the corrupt and brutal but Communist-fighting South Vietnamese leader to whom over $4 billion of loans and grants was given: 'Shit, Diem’s the only boy we got out there’ (Hertz, 2004, p. 31).

As the cold war drew to a close however, the priority system underwent a drastically re-ordering. It was no longer necessary to court the strategic allegiance of fickle developing countries and responding to this changed landscape “loans were called in overnight, and new lending (which was the way many countries had been able to service old debts in the past) was either curtailed or provided under far less generous or far more political terms” (Hertz, 2004, p. 33). This pattern of decline has continued, as lending and aid have become more strained in the absence of an immediate strategic kickback. “It is abundantly clear that the lender is not an almsgiver in the world of Realpolitik. The agenda is to serve the perceived self-interest of the lender, debt to be granted and withdrawn as he sees fit” (Hertz, 2004, p. 36). This type of politically motivated decision-making process has only aggravated the instability of the global economy. Hertz contends that, “the short-sighted decisions created by geopolitical considerations devoid of humanity – or even intelligent self-interest – are a crucial component in the building story of the debt threat” (Hertz, 2004, p. 39).

It is important also to consider the impact of recent history on the narrative of debt and debt workout. Perhaps the most alarming development is that whilst the focus of the institutions of global governance may have shifted from countries of the South to developed countries, by and large, the crisis does not seem to have inspired any radical changes within the organs of financial governance. What it has done is loosen the reigns over policy control; strict adherence to a neoliberal policy response to crisis has splintered into surprising directions. Grabel (2010) contends that institutional and policy responses to the 2007-08 crisis seems to suggest that the 'neoliberal' prescription is no longer “the default or only option for national governments or even for the International Financial Institutions that have been forced, at least in the context of some countries, to allow substantial departures from their traditional policy prescriptions” (p.4). What appears emerging is more context and country specific policy approaches “that to date have not congealed into any sort of coherent

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13 It should be noted that the relationship between the World Bank and U.S strategic interested was complex. The Bank did lend to non-aligned countries, and even, on occasion to countries that the U.S did not approve of, for its own institutional reasons, however this independence was at best occasional, and arguably served to increase the Bank’s legitimacy in promoting U.S interests.
Grabel (2010) refers to this new inconsistency in response to crisis as “productive incoherence” (p.2), contending that this is welcome news for critics of neoliberalism, particularly in the context of developing economies. Grabel however, cautions against over-optimism, noting that “advocates of neoliberalism have, in the recent past, proven remarkably adept at “paradigm maintenance.” It is at least conceivable that this world view may re-establish itself in the post-crisis environment” (Grabel, 2010, p. 2).

This points to the reality that policy prescriptions for debt crisis management effectively turned 180 degrees when faced with crisis in the North as opposed to comparable crisis in the South:

> When the capitalist class is threatened with destruction, there is no limit on the debt that they are prepared to rack up. And they were again quite happy to ditch all their earlier talk about “small government” and “fiscal prudence” in the northern autumn and winter of 2008 when their own skins were at risk (Bramble, 2010, para 4).

The direction the debt narrative and the neoliberal discourse will take as it begins to emerge from the current crisis depends largely on the level of cynicism entertained by the speculator; as Dienst notes, “neoliberal states become key agents of dispossession by learning to manipulate social and economic turmoil to carry out redistributions of wealth at home and abroad” (Dienst, 2011, p. 25).
CHAPTER TWO: HOW CONVENTIONAL ECONOMISTS ACCOUNT FOR THE GLOBAL DEBT PROBLEM

Debt is a social and ideological construct, not a simple economic fact. Furthermore, as understood long ago, liberalisation of capital flow serves as a powerful weapon against social justice and democracy. Recent policy decisions are choices by the powerful, based on perceived self-interest, not mysterious “economic laws”. Technical devices to alleviate their worst effects were proposed years ago, but have been dismissed by powerful interests that benefit. And the institutions that design the national and global systems are no more exempt from the need to demonstrate their legitimacy than predecessors that have thankfully been dismantled.

Noam Chomsky 1999

Neither policy-making nor the kind of social scientific research and theory done by economists is ever simply or only an ‘objective’ or unequivocally empirical process shaped in a unilateral way by the ‘stuff’ of ‘reality’. Without entering into an elaborate methodological defence of this proposition, I start with the premise that both the social world and the problems governments and institutions, policy makers, and social scientists address in their various ways, always involves a significant degree of discursive constitution-cum-representation.

In an important theoretical intervention Bacchi (2007) has argued that the problems governments and international agencies like the IMF and the World Bank address are not simply ‘there’ in ways which these entities then react to. She makes her point by referring to Edwards’ (2004) description of the policy-making process which says “public policy addresses societal problems and is about what governments do, why they do it and what difference it makes”. As Bacchi (2007, p. 1) says:

The term ‘addresses’ in this quote reflects what I call a reactive understanding of government processes. It is based on the assumption that governments react to fixed and identifiable social ‘problems’, and do their best to solve them.

She proposes an alternative approach which stresses the ‘constructed’ and highly selective way policy problems or what she calls ‘policy representations’ come into being. Bacchi insists that governments, aided and assisted by other actors in the policy community, including academics, experts, politicians, activists policy makers, administrators, the media and so forth “all help to give a particular shape to ‘problems’ in the ways in which we speak about them and in the proposals we advance to ‘address’
them” (Bacchi, 2007, p. 1). To establish how this happens she says we need to probe the ‘deep conceptual underpinnings of problem representations’. These are found at two levels namely what is represented to be the concern and what is represented to be the cause of the problem. As she shows the presuppositions about what best explains or causes a given problem can often be ‘read off’ from specific policy proposals. When a government or an agency says what they will do about something often indicates what they believe needs to change and hence what they believe best explains the problem. Equally to analyse concerns it is necessary to broaden the analysis to include the wider policy debates (see Bacchi 2009). Bacchi’s point in either instance is that there is no warrant for treating a policy problem like ‘excessive debt’ as a simple empirical problem. Rather its status as an agreed on ‘policy problem’ is the end point of the effort put into ‘making it up’ on the part of key players in the relevant policy community.

This is to say as Hacking (2002) puts it, that governments, policy makers, institutions like banks and non-government organisations, as well as social scientists, rely like the rest of us, on a vocabulary of ideas and concepts assembled into complex arguments in order to interpret and understand things. At the same time as Schutz (1967) and Giddens (1987) have insisted, there is a complex ongoing interchange between ‘social reality’ and the discursive means of representing it which makes these discursive processes central to the constitution of social reality in a process Giddens refers to as the ‘double hermeneutic’. In effect both policy making and social scientific work is implicated in the invention and construction of those problems that come to be recognized as major national or international policy problems. Policy-making is based on persistent practices of sense-making and ‘reality’ construction in which words and talking are central. As Yeatman (1990) and Hum (1993) have observed, those who control the discourse control the power to mean.14

As economists like McCloskey (1983) and Weichselbaumer and Winter-Ebmer (2003) acknowledge, this observation implicates economists like every other social science. As I will show here there are no more important players in the processes set to address the problem of global debt than the community of economists. These observations are a preface to the discussion here of how conventional economists have discussed and described global debt, assessed its extent and explained its causes. In what follows I explore the ways the development of ‘structural adjustment problems’ reflects the way economists have represented the problem of debt

14 At its best this awareness in language directs our attention directly to the heart of important political and policy issues. At their worst, as important critics of an excessive preoccupation with discourse like Palmer (1990, pp. 3-47) have pointed out, an interest in language and texts can also encourage a lot of silliness. It is worth noting that an interest in the role played by language has become quite fashionable over the past few decades. It is an interest that has been a major feature of the social sciences and philosophy especially over the past half century.
In this chapter I set out to make sense of the concept of ‘global debt’ and the data by examining some of the underlying problems involved in making sense of the global debt problem, then provide an overview of the trends in debt accumulation over the past few decades, with some attention given to the situation after 2008 and the effects of the global financial crisis.

I pursue these objectives by asking what is global debt, and how is it conceptualised by conventional economists, questions designed especially to establish how conventional economists and institutions like the World Bank and the IMF, who depend on an economic framework, constitute this problem.

**Conceptualising Debt**

Global debt is difficult to define and measure and there are a number of reasons why this is so. For the most part important macroeconomic measuring tools like the Consumer Price Index (CPI) or Gross Domestic Product (GDP), are estimated with reference to universally understood standards and methods. This is not the case regarding public sector debt. A lack of uniform nomenclature has fostered confusion and inconsistency in estimations of public sector debt and muddled subsequent discussions around debt accumulation, debt exit, and fiscal policy appropriate to managing debt crisis.

The crux of the problem seems to be that estimations of public sector debt are arrived at via a process of deciding what to include and exclude in its basic definition. “Debt statistics, for example, may include or exclude state and local governments and may cover all debt instruments or just be a subset” (Dippelsman, Dziobek & Gutiérrez Mangas, 2012, p. 3). The haphazard way in which important components are included or excluded from definitions of public debt can have a distorting impact on how data is presented and received, as “debt-to-GDP ratios for a country at any given time can range from 40 to over 100 per cent depending on the definition used” (Dippelsman et-al., 2012, p. 3). Further obscuring the clarity of debt indicators is the only rare occasioning whereby methods of debt valuation are explicitly explained in the presentation of data “even though market versus nominal valuation can be significantly different” (Dippelsman et-al., 2012, p. 4). Nor is consolidation of debt or the “netting out intra-governmental obligations” (Dippelsman et-al., 2012, p. 4) normally specified. Frequently the compilation of debt data uses cash data, “excluding non-cash items such as arrears or using accrual (or partial accrual) methods to reflect important non-cash obligations” (Dippelsman et-al., 2012, p. 4). In spite of this, there is surprisingly little discussion about the extent to which differences in methods of public debt measurement impact analysis of debt sustainability.

Therefore not only is not all debt the same, but not all debt data are counted the same. This makes achieving lucidity regarding the size of the problem a problem in itself. Conceptualisation of debt has
proved to be open to interpretation, and as understandings of debt continue to evolve, the business of identifying its various components involves fixing focus on a moving target. As Roer points out:

...the mix between domestic debt, external debt and the mix of bilateral, multilateral and private debt is also changing; new emerging economies become more important and relevant creditors and the Paris Club creditors claims are becoming smaller relatively speaking (Roer, 2013, p. 10).

This is not to suggest that there does not exist international guidelines on the compilation of public sector debt, in fact to the contrary, and they are reasonably well established within the institutions that are accustom to using them. These guidelines are published by the World Bank in the *Public Sector Debt Statistics Guide: Guide for Compliers and Users*, also known as the Debt Guide.

The Debt Guide is intended to offer a conceptual framework to be utilised by public sector debt statisticians. “The framework is derived from the System of National Accounts 2008 (2008 SNA) and the Balance of Payments and International Investment Position Manual, Sixth Edition (BPM6)” (TFFS, 2013, p. 1). Within this framework, public sector debt is defined as inclusive of:

...all liabilities of public sector units (as defined in the 2008 SNA) excluding equity and investment fund shares and financial derivatives and employee stock options. The total amount of these debt liabilities is presented as the gross debt position of the public sector unit(s) for which the statistics are compiled (TFFS, 2013, p. 1).

The Debt Guide describes how these guidelines can be applied in analysis of debt and debt sustainability which incorporates categories of vulnerability and fiscal risk.

Certainly macroeconomic statisticians are familiar with the concept of gross debt and have arrived at some consensus as to what the term encompasses in the discourse, however as a practical matter, the adoption of a global standard for statistical definitions of debt still requires “some development efforts in terms of source data availability and training for compilers of debt statistics” (Dippelsman et-al., 2012, p. 4). Of particular importance is the need for comprehensive coverage of all financial instruments and institutions. Likewise:

...detailed information on contingent liabilities and derivatives should also be considered. Coordination across agencies that work with debt related data is also critical, as with other complex datasets such as GDP (Dippelsman et-al., 2012, p. 4).

The Debt Guide defines total gross debt\(^\text{\textsuperscript{15}}\) as “all liabilities that are debt instruments. A debt

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\(^{15}\) While gross debt is the indicator that debt discussions usually arrange themselves around, an analysis of net debt is also central to understanding the security of a countries debt position. Net debt is calculated by finding “gross debt minus the financial assets corresponding to debt instruments”
instrument is defined as a financial claim that requires payments (s) of interest as/or principal by the debtor to the creditor at a date, or dates in the future” (TFFS, 2013, p. 3). It goes on to list six financial claims which may be included in the category of debt instruments. They are special drawing rights, currency and deposits, debt securities, loans, insurance pensions and standardised guarantee schemes and other accounts payable (TFFS, 2013, p. 3).

Special Drawing Rights (SDRs) are a type of international monetary reserve currency created by the IMF in 1969 in response to concern regarding the limitations of gold and dollars as the only means of settling international accounts. They operate as a supplement to the existing reserves of member countries. Whilst the Debt Guide includes SDRs in its definition of gross debt, in a number of countries, SDRs “are held by central banks and are not included in the debt of the general government” (Dippelsman et-al., 2012, p. 7).

Currency includes all notes and coins of fixed value, issued by the central bank or government. Whilst it is possible for government subsectors to hold currency it is usually the case that the central bank is the sole issuer. Deposits include all claims (made valid by evidence of deposit) on the deposit-holding corporations (including the central bank) and often central government and other agents.

Debt securities are money borrowed that must be repaid that has a fixed amount, a maturity date and (usually) a fixed rate of interest. Examples include treasury bills, commercial paper and bonds. Loans are those financial instruments created when a creditor lends funds to a debtor and accepts a non-negotiable document as proof of the transaction.

Insurance, Pension and Standardised Guarantee Schemes (IPSGS) include:

...non-life insurance technical reserves, life insurance and annuities entitlements, pension entitlements, claims of pension funds on pension manager; and provisions for calls under standardized guarantee schemes (Dippelsman et-al., 2012, p. 7).

Other accounts payable is a category which includes trade credits and other assorted outstanding accounts. Frequently this instrument is left out of analysis of public sector debt.

In spite of this clear compartmentalisation of debt into its various instruments, the variety of ways in which components from this list are interpreted has a significant impact on how debt is ultimately represented. Of particular importance are “the subsectors of the public sector covered – institutional coverage – and debt instruments coverage” (Dippelsman et-al., 2012, p. 5).

Of the six debt instruments that should be compiled in order to represent an accurate account of the
value of debt, it is frequently the case that only debt securities and loans are considered, most likely because the data pertaining to these two instruments are easily accessible in developed economies. Data on government debt securities is “traded on national and international markets and data on loans are available because international organisations (major creditors) have maintained databases on government loans” (Dippelsman et-al., 2012, p. 7).

In their analysis of 55 countries, Dipplesman et-al. found that “as expected, debt securities are, on average, the main debt instruments accounting for 57 to 72 per cent of gross debt. Loans account for 15 to 30 per cent of debt” (Dipplesman et-al., 2012, p.12). Across the board debt securities constitute the largest component of gross debt and given that securities are “the most marketable debt instruments and the primary instruments used by countries with access to a developed financial market” (Dipplesman et-al., 2012, p. 8) this makes sense. Whilst loans do not share this same marketable quality, they commonly make up the vast bulk of the debt instrument portfolio in countries with “underdeveloped or constrained financial markets” (Dipplesman et-al., 2012, p. 8). The debt instruments most habitually excluded from the total are accounts payable or insurance technical reserves. In the same analysis of 55 countries, Dipplesman et-al. also found that other accounts payable represent around “4-10 per cent of debt instruments on average which is also a significant portion” (Dipplesman et-al., 2012, p. 12). This often omitted debt instrument affords governments some leeway to manage finances discreetly in circumstances which constrain their access to borrowing markets. “In some countries, this item has soared during times of financial stress making this debt instrument a potentially important lead indicator of debt distress” (Dipplesman et-al., 2012, p. 12).

IPSGS’s are arguably the most problematic of all the debt instruments. “Actuarial parameters, assumptions on discount rates, and estimates of losses on guarantees are needed for the estimation of this debt instrument” (Dipplesman et-al., 2012, p.15). Faced with these obstacles, statisticians frequently assign no value to these instruments rather than cite them as unmeasured and this leads to inaccuracies, as in many instances the liabilities of IPSGS’s are considerable. Dipplesman et-al. note that “developing better data on this important debt instrument would be an important task for many countries and a significant enrichment of the database” (Dipplesman et-al., 2012, p.15).

In order to arrive therefore, at an accurate estimation of the size of debt, macroeconomic assessment needs to accommodate a more sophisticated understanding of the composition and characteristics of each instrument than it does currently; “for example, currency, Special Drawing Rights and other accounts payable each have different implications for liquidity and payments of principal and interest” (Dippelsman et-al., 2012, p7). Whilst data on these instruments is generally more difficult to access, it is available. “For example data on SDRs published by the IMF and the Government Finance Statistics yearbook (GFSY) includes information that allows us to quantify the relative magnitude of
these various debt instruments” (Dippelsman et-al., 2012, p. 7).

Without centralised global debt indicators, it may be the case that debt data needs to be compiled from a number of sources found in a number of places. Usually data for securities and loans is supplied by debt management offices, where data on other accounts payable is often sourced from the ministry of finance or some other relevant statistical institution or body. Moreover, accounting for debt owed to domestic residents in comparison with debt owed to foreign residents may fall to different agencies such as the central bank. It is customary for debt management offices to expend their efforts accounting for the more marketable debt instruments.

In trying to take all these moving parts into consideration one is perhaps driven by the assumption that there is a David somewhere underneath the slab of marble waiting patiently for Michelangelo to set upon it and release him, but is this really the case? Is there a debt number that if calculated correctly would help us to better find real debt? Dippelsman et-al. pose the question; “is Canada’s debt-to-GDP ratio closer to 40 per cent or 104 per cent?” (Dipplesman et-al., 2012, p. 11). Their answer alas plunges us still further down the rabbit-hole; “both numbers are correct but have different analytical implications” (Dipplesman et-al., 2012, p. 11).

To put that question of finding real debt aside for one moment, at the very least, what a more universal nomenclature for sovereign debt would do is make it easier to understand why the numbers show up differently in different audits. It would also serve to increase awareness of “potential fiscal risks hidden in debt instruments or debt structures and highlight fiscal decentralisation and its analytical implications” (Dipplesman et-al., 2012, p.10). In any case, what needs to be made clear in the compilation of debt data is what specific method of valuation is being employed in each data set, making plain what is being counted in and what is being left out, otherwise comparisons between data can be deceptive. It is certainly true that differences in valuation may have a negligible impact on the end data, however “there are cases where valuation differences can be very large” (Dippinesman et-al., 2012, p.15).

And even as the individual components of debt become more visible, the overall picture can still become more obscure. The paradoxical reality is that “debt can grow and shrink at the same time; the market value can fall while the face and nominal value can rise” (Dipplesman et-al., 2012, p. 15). The credit risk of a country can be hard to gauge as even the faintest hint of vulnerability can send the price of debt securities plummeting, prompting the market value of debt to fall. Meanwhile neither the nominal, nor face value, of debt securities, are actually impacted by these market spasms and according to these measures debt is growing rather than shrinking as a result of increased borrowing. Similarly other externalities such as changes in interest rates can influence the market value of debt. Falling interest rates “will mean that the pre-existing debt still paying the higher yields will cause an increase in market value, but not nominal or face value” (Dipplesman et-al., 2012, p. 15).
Discrepancies between face and nominal value can also be exacerbated when securities are discounted. This is because the face value is inclusive of the interest that accrues for the duration of the instruments life, and therefore the face value can exceed the nominal value as a result of interest that is yet to be accrued.

Finally, there is a tendency in debt data to eliminate instruments that are owned and owed to the same group, following a sort of cancel-each-other-out logic. For example, “loans to state governments by the central government would be recorded as state government debt, but not as debt of the general government as a whole” (Dipplesman et-al., 2012, p. 16). This principle is known as debt consolidation. Debt not consolidated in this way usually presents as higher and the difference can be significant. For example “a central government may borrow and on-lend funds to other levels of government, or a high proportion of bonds could be held by a social security fund” (Dipplesman et-al., 2012, p. 16).

Therefore data on government debt should be considered with caution. Governments do not always and everywhere account properly for all their financial commitments, and if hidden debts were included in estimates, they would likely be considerably higher. Given that data on public debt levels are largely self-reported, governments have a degree of discretion regarding the final presentation of their balance sheet. Components that may be omitted include their “loan guarantees, obligations of state-owned enterprises, obligations of the central bank, or implicit guarantees in their data reports” (Nelson, 2011, p. 7). A recent example of under reporting of debt data can be found in the Greek debt crisis, where “revelations of underreported budget deficits contributed to investor anxiety surrounding the sustainability of Greece’s debt” (Nelson, 2011, p. 7).

The need for streamlined indicators of government debt is certainly pressing. It should include coverage of all the appropriate debt instruments and should be both government focussed and consolidated, including as assessment of both the nominal and market value of debt securities.

**Sustainable Levels of Debt**

The conventional way to measure debt sustainability is by assessment of two criteria: fiscal and external. One of the most basic fiscal challenges faced by poor countries is a situation of domestic savings insufficient to support the domestic investment needed to generate growth. In order to bridge this savings gap, the public sector runs a fiscal deficit which contributes the accumulation of either foreign or domestic debt.

For many poor countries this situation is chronic and it is difficult to imagine ways to escape it,
particularly where capacity to generate revenue is limited. The result is that crucial public sector spending and the provision of a minimum of basic services and infrastructure becomes a fraught undertaking; failure to invest in infrastructure and basic services usually pre-empts a significant loss for the profitability of both public and private investment.

Apart from the fiscal gap, poor countries also commonly face an external financing gap, which fuels anxieties around a country’s external debt sustainability. Often dependent on foreign capital in order to bridge the savings gap, when domestic investment out-strips national savings it shows up as a current account deficit. It is frequently the case that debt in developing economies is held in foreign currency, and where domestic resources fail to be converted into foreign exchange via export earnings, the debt becomes unsustainable. However external debt is not necessarily a good measure of debt sustainability. One only needs to consider the safe yet enormous external debt of the U.S by way of example. “After rises in government to GDP ratios of over 30 percentage points in countries such as the United States and the United Kingdom, treasury bonds in these countries carry an AAA credit rating and pay low interest rates” 16 (Panizzi et-al., 2010, p. 13).

In addition to these two traditional indicators of debt sustainability, a further two factors termed the “alternative concepts of debt sustainability” (Cassimon et-al, 2008, p. 23) have made their way into the conversation. One of these concepts, the “debt overhang hypothesis” (Cassimon et-al., 2008, p. 23) contends that:

…”a high current debt itself may severely hamper future debt-servicing capacity because it might introduce to the economy all kinds of disincentive effects to invest and adjust, resulting in a severe negative effect on future economic growth (Cassimon et-al., 2008, p.23).

A second alternative concept theorises that a high debt-service burden may show up in unexpected

16 One of the most widely used and arguably least useful indicators of debt sustainability is the debt to GDP ratio. Given that debt crisis over the past 40 years and prior to 2007/08, have commonly been associated with developing countries, the assumption follows that debt to GDP ratios in these countries must be poor. On examination however, levels of public debt are generally speaking not higher in developing economies than they are in advanced economies:

Take, for instance, the case of Japan which has a public debt well above 150 per cent of the country’s GDP. And yet, the Japanese debt is considered to be safe and pays interest rates which are close to zero. Concurrently, developing countries often face debt crises with debt levels which are as low as 30 per cent of GDP (Panizzi et-al., 2010, p. 13).
ways in political arenas. Resources earmarked for debt servicing come at the expense of poverty reduction measures and initiatives. EURODAD has termed this phenomena the ‘unaffordable debt service’ and has become known as the “human development approach” (Cassimon et-al., 2008, p. 23) to debt sustainability, which considers the expenditure needed to address important social goals, and the accompanying political pressure to accumulate debt in order to do so.

Cassimon et-al. (2008) argue that simplistic definitions or indicators of debt sustainability are incapable of assessing the sustainability of debt in a meaningful way, and that “it is preferable to rely on a framework that recognizes the multiple constraints faced by low income countries” (p. 24). Such a framework would include:

• a menu of indicators, including both the present value of the debt stock and debt-service indicators relative to a range of variables, such as exports, revenues, and GDP; and analyzing their dynamic evolution over time using realistic macroeconomic assumptions (Cassimon et-al., 2008, p. 24).

Current frameworks used by the IMF to measure debt sustainability do not embody this vision.

It is widely accepted that debt composition plays a role in debt crisis and therefore the level of debt sustainability; how to best act on this information however is unclear. Two dominant schools of thought have attempted to resolve this question. One school understands the nature of debt structure to be a problem of “a country’s inability to borrow in its own currency is mostly due to network externalities and historical accidents” (Panizza et-al., 2010, p. 14). This view supports reform of the mechanisms of global economic governance, contending that “debt sustainability can be improved through the creation of new instruments and new institutions” (Panizza et-al, 2010, p. 14).

The second school of thought suggests that policies and institutions account for most of the ways in which debt is comprised, arguing that:

• the status quo is just a reflection of a more fundamental credibility gap. Reinhart, Rogoff and Savastano (2003) thus argue that developing countries are “debt intolerant” because they lack the institutional set up to sustain even moderate levels of debt (Panizzi, 2008, p. 12).

This view attributes the poor levels of debt sustainability in developing economies to underdeveloped institutional procedures and arrangements, which catalyses poor decisions about resource allocation, and weak economic policy management in general. In this view, the ultimate cause of poor debt sustainability prospects is bad policy, which reduces the likelihood of a debtor meeting its repayment obligations, and sabotages the possibility of growth and macroeconomic stability. “Therefore, a bad debt structure is not the fundamental cause of debt crisis; it is simply a symptom of a deeper
domestic problem” (Panizzi, 2008, p. 12). This is historically the view the IMF and World Bank have taken with regard to problem debt in poor countries, and one which has informed the rational for the imposition of structural adjustment programs.

In the original HIPC program, the primary threshold requirement for a country to be eligible for debt relief was determined by using a debt-to-exports ratio exceeding 250 per cent, or alternatively, when the ratio of debt-to-government revenues exceeded 280 per cent (Carrasco, McClellan, & Ro, 2007, p. 114). If however, the debt to export ratio fell even slightly outside these stipulated margins, the debt burden was considered sustainable. As a result, many impoverished and highly indebted countries were reckoned to have sustainable debt. Countries ineligible for the HIPC scheme include Kenya:

...where life expectancy is just 52 and a third of the population are undernourished, and Bangladesh, where more than half the population cannot read or write and 84% live on less than $2 a day (Williams & Rogers, 2008, p. 37).

The IMF and World Bank definition of sustainability was (and largely is) conceived of in the narrowest possible sense, more indicative of the level of debt a country can just afford to pay without buckling entirely. In short, if a country can pay its debts from its export earnings without going broke, then the debt is assumed to be sustainable; a concept of sustainability so ungenerous that it might better represent survivability.

Reaching completion point in the HIPC program is conditional on implementing a number of macroeconomic policy reforms denoted by the IMF to be critical to moving countries towards debt sustainability. Assessment of the sustainability of a country’s debt is made by the IMF using a framework which became operational in 2002; the Debt Sustainability Analyses (DSA).

In its current form DSA has three stipulated objectives. The first is to take stock of the current debt situation of a country, which includes analysis of “its maturity structure, whether it has fixed or floating rates, whether it is indexed, and by whom it is held” (IMF, 2013, para 2). The second is to isolate weaknesses in macroeconomic policy in such a manner that there is sufficient time to correct them before they impinge upon a countries’ capacity to service its debts, and the last is to intervene in countries that have already passed this point “to examine the impact of alternative debt-stabilizing policy paths” (IMF, 2013, para 2).

The framework is designed to assess debt from two perspectives; total public debt and total external debt. In this framework:

...each component includes a baseline scenario, based on a set of macroeconomic projections that articulate the government’s intended policies, with the main assumptions and parameters clearly laid out; and a series of sensitivity tests applied to the baseline scenario, providing a
probabilistic upper bound for the debt dynamics under various assumptions regarding policy variables, macroeconomic developments, and financing costs. The paths of debt indicators under the baseline scenario and the stress tests allow to assess the vulnerability of the country to a payments crisis (IMF, 2013, para 3).

It is difficult to find that current methodologies for assessing levels of debt sustainability are comprehensive or fair. They fail to take account of the particular and complex circumstances faced by poor countries that usually only have access to limited external private capital flows. Grossly deficient private equity flows usually mean that poor countries are dependent upon loans and grants to finance foreign exchange shortfalls. Furthermore, for many poor countries, “aid uncertainty and volatility may complicate debt sustainability analysis” (Cassimon et-al., 2008, p. 48).

Moreover, even as domestic debt markets grow, their capacity to finance the fiscal gap over an extended period is limited. Poor countries in particular are vulnerable to exogenous shocks, which can negatively impact the sustainability of debt. Cassimon et-al. argue that, what “must be emphasized, however, (is) that many factors influencing debt sustainability are not easily brought together in a few thresholds” (2008, p. 49).

Empirical studies that have attempted to assess debt sustainability in poor countries have relied on frameworks and models that have limited and dependent variables (Manasse & Roubini, 2005, p. 16) however according to Kraay and Nehru (2006, p. 348), the success of these models in producing data that contributes something useful or uniform to analysis about the sustainability of debt has been limited. In spite of this, “indicative threshold values have been and will continue to be used in operational work” (Cassimon et-al., 2008, p. 49).

When considering the export projections that the IMF and World Bank use to determine debt sustainability, they have been discovered in hindsight to be radically optimistic. As Chenu (2006, p. 12) notes, for the first 24 HIPC countries to reach their decision points, the average growth in exports for 2001 was projected to be 11.6%, a figure bearing little resemblance to the historical performance of HIPC countries. Indeed, for several countries that had worsened Net Present Value (NPV) of their debt-to-export ratio in 2001, the majority of the deterioration was the result of lower exports. Cheru further argues that:

A similar conclusion was made in an independent evaluation undertaken by the U.S General Accounting Office (GAO). The GAO, which analysed debt sustainability for 10 African countries, found that only 2 out of the 10 countries would have sustainable debt levels if these countries exports were to grow at rates consistent with their historical levels (2006, p. 12).

Since 1965, annual export growth for low income countries has been less than one-third of this level. It therefore not surprising that the actual export growth for these 24 countries during 2001 was less than half the World Bank’s projected level at 5.1% (Jochnick & Preston, 2006, p. 49).
Even the World Bank has conceded that some of the projections have been unrealistic, but fails to advance an explanation for this. When estimating the expected GDP growth rates for 24 HIPC countries for 2000-2010, the IMF and World Bank projected rates of 5.5 per cent, even where the average GDP growth rates from 1990-1999 were only 3.0 per cent (Raffer, 2010, p. 34). Neither institution has explained why they would skew estimates in this way. One may speculate that given that over-inflating growth estimates over-inflates future revenue estimates, it is likely a mechanism whereby debt can be supposed to be more sustainable than it really is. Analysis by Prizzon and Mustapha (2014, p. 32) contends that much of the debt of these countries will become unsustainable again after the full HIPC debt relief is provided, mostly due to the IMF and World Bank basing the amount of debt cancellation on wrongfully projected levels of revenue, exports and GDP. Prizzon et-al further point out that the optimistic nature of these growth projections, which reflect far higher revenues than historical trends demonstrate, mean firstly that less relief is being provided and secondly that countries will find that export earnings in future will not be able to meet debt repayments (2014, p. 34).

These problems are unlikely to go away of their own accord. In spite of debt cancellation and re-structuring, debt sustainability for many poor countries still seems an unlikely prospect, particularly if the MDGs, and the financing required to achieve them are to be taken seriously (Kraay & Nehru, 2006, p. 352). In this regard, McGrew and Poku contend that adequate debt sustainability indicators should be based on “a systematic assessment of each country’s needs for debt reduction and increased foreign assistance measured against explicit development objectives” (2007, p. 79) and that the appropriate starting point for assessing needs should be the targets enshrined in the MDGs.

The Current Outlook

In recent years there have been some commendable attempts by statisticians, economists and scholars to compile data for groups of developing economies on levels of public debt and its composition. Since 2006 this has included the work of Jeanne and Guscina (2006); Cowan, Levy Yeyati, Panizza and Sturzenegger (2006); Jaimovich and Panizza (2006); Panizza (2008); and Reinhart and Rogoff (2009).

The work of Jeanne and Guscina (2006) and Cowan et al. (2006) compiles data on the composition and level of domestic and external debt:

Jeanne and Guscina cover 19 emerging market countries and Cowan et al. cover 23 countries located in Latin America and the Caribbean. Both datasets aim at covering the 1980–2004
period but have missing information for some countries in the 1980s and early 1990s
(Panizza et-al., 2010, p.3).

Jaimovich and Panizza (2006) and Panizza (2008) have compiled datasets “on public debt of up to 130
countries for the period 1990–2006 which aims at capturing both the domestic and external
components of public debt, no matter who the holders are” (Panizzi et-al., 2010, p.3). Reinhart and
Rogoff (2009) have certainly brought together the largest debt database of its kind to date.

In spite of these efforts, it still seems somehow difficult to get an accurate picture of the magnitude
of debt as even where the data is clear, the analysis that customarily accompanies it can skew its
representation as there are different understandings of to what extent debt is either fundamentally
problematic or decidedly necessary. The manner in which the data is scrutinised and presented belies
the interests or ideological perspectives of the scrutinising party. For example, the World Bank notes
that:

IDA resources are reserved for the world’s poorest countries, and its operations are
concentrated in South Asia and Sub-Saharan Africa. New loan commitments from IDA rose
15 per cent in 2009 to $10.4 billion, but gross disbursements increased more rapidly, by 26
per cent to $8.7 billion (World Bank, 2010, p. 7).

This terminology is exceedingly unclear. The reference to ‘resources’ is in fact a reference to loans. It
seems contrived to say that loans are ‘reserved’ for the world's poor countries, since in many
instances the world’s poorest countries are obliged to accept loans in order to keep servicing
outstanding debt. What can be inferred from this is that new lending to the poorest regions rose by
15 per cent ($10.4 billion) and simultaneously the rate of distribution on both new and existing loans
and/or grants rose by 26 per cent ($8.7 billion).

In this way, differences in emphasis and the nuance of language around data works to impress upon
the reader a particular account of debt situations which may or may not be the ‘whole’ truth
objectively speaking. Further, the UN reports note that where analysis of regions is generalised, it
masks “substantial heterogeneity among developing countries” which does not “reveal the
vulnerabilities still faced by many of them” (UNCTAD, 2012, p. 1).

Most IMF analysis regarding debt flows into developing regions deals with what is termed ‘external
debt’. This is because it is typical within the discourse to conceive of the debt of sovereign nation
states as national debt, owed to agents residing outside the country, not public debt, which might
well be owed to domestic agents.

Panizza et-al. note that the term ‘external debt’ can be taken to mean three different things:

The first focuses on the currency in which the debt is issued (with external debt defined as
foreign currency debt). The second focuses on the residence of the creditor (external debt is debt owed to non-residents). The third focuses on the place of issuance and the official body that regulates and enforces the debt contract (external debt is debt issued in foreign countries and under the jurisdiction of a foreign court) (Panizza et-al., 2010, p. 2).

In fact each of these definitions poses certain problems. The first definition fails to consider that a number of countries both issue debt domestically in currencies other than their own, and issue debt in their own currency into the international market. The waters are further muddied where a number of countries share the same currency.

The official definition, or at least the one endorsed by compilers of statistics on public debt, focusses on the whereabouts of the creditor. Whilst this categorisation has a certain logical appeal, it is fast becoming redundant as debt markets grow more fluid. “In recent years several countries adopted aggressive policies aimed at retiring public external debt and substituting it with domestically issued debt” (Panizza et-al., 2010, p. 3). The reality is that it has become almost impossible to know with any certainty the geographic whereabouts of debt holdings, therefore impossible to divide debt into categories of external and national. However coaxing the debt discussion around to one about domestic rather than external debt is more problematic that one might suppose, mostly because the data that would facilitate such analysis is patchy at best.

In light of these complications, countries have largely resorted to compiling debt data using the third definition of external debt, which takes into account both the place from whence the debt is issued and the jurisdiction under which the contract is regulated. However increasingly this definition is also proving to give an erroneous reading as:

...there is anecdotal evidence that more and more international investors are entering the domestic markets of developing countries and that domestic investors often hold bonds issued in international market (Panizza et-al., 2010, p. 3).

It is precisely because of the variability of perspective associated with concepts of debt and debt data that it is prudent to compare analysis. This research has contrasted commentary from the World Bank with that of the UN. Whilst the analysis presented by these institutions pivots around different focal points, they both conclude that debt in poor countries is growing.

The World Bank reports that “the combined stock of developing countries’ external debt rose $437 billion to $4 trillion at end in 2010, reflecting net debt inflows of $495 billion” (World Bank, 2012, p.1). Of this debt inflow, the fastest growing debt was short term, which rose “by 34 per cent in 2010 as compared to a 6 per cent increase in the stock of outstanding long term external debt” (World Bank, 2012, p.1).
The most significant change to debt as observed by the World Bank is the rapid rise of debt flows from private creditors, which have soared to “close to five times their 2009 level, driven by a massive jump in short-term debt and a strong rebound in bond issuance by public and private sector borrowers” (World Bank, 2012, p. 2). This reflects the changing composition of debt flows from predominantly official creditors to predominantly private creditors. The World Bank notes that the “net inflow of debt related financing from official creditors (excluding grants) declined by 11 per cent, with those from the International Monetary Fund down almost 50 per cent from their 2009 level” (World Bank, 2012, p. 2). In terms of borrowing, private sector inflows, which experienced a “ninefold increase from 2009” (World Bank, 2012, p. 4) outstripped public sector inflows significantly. Over the past decade flows from bi-lateral creditors have generally been negative, “in 2009 the net inflow on loans from bilateral creditors turned sharply positive and they rose by a further 76 per cent in 2010, driven by the emergence of a new, and important, group of bilateral creditors, in particular China” (World Bank, 2012, p. 4). This is largely as a result of net debt not only mounting for developing countries, but across the board since 2010.

The 2010 increase in net capital flows was accompanied by marked change in composition between equity and debt related flows. The World Bank noted that:

...periods of rapid increase in capital flows have often been marked by a reversal from equity to debt. For example, in 2007, when net capital flows increased by 65 per cent, to $1,133 billion, the main driver was the 80 per cent rise in debt related flows from private creditors (mostly to private sector corporate borrowers in developing countries) and not the more moderate, 35 per cent rise in equity inflows (World Bank, 2012, p. 2).

The World Bank also notes that most of the capital inflow to developing countries is accounted for by ten countries in particular, categorised as the “top 10 borrowers” (World Bank, 2012, p.2). Over the past ten years, this group has accounted for “on average 70 per cent of the annual aggregate net capital inflows to all developing countries and they have received a much larger share of net equity inflows than other developing countries” (World Bank, 2012, p.2). The differences between these ‘top ten borrowers’ and other developing countries are significant. “In 2010 net capital inflows to the top ten borrowers increased by an average of almost 80 per cent compared to only 44 per cent for all other developing countries combined” (World Bank, 2012, p. 2).

United Nations Conference on Trade and Development (UNCTAD) analysis of the debt situations of developing countries paints an even grimmer picture, noting that most of them remain net importers of capital:

In 2011, 94 developing countries (out of 128 for which data is available) were running a current account deficit; alarmingly, 64 of these 94 countries had a deficit greater than 5 per
cent of gross domestic product (GDP). Almost all Least Developed Countries (LDCs) (42 out of 47 for which data are available) had a current account deficit both in 2010 and in 2011. About two-thirds of the countries belonging to this group (33 in 2010, and 36 in 2011) had a current account deficit greater than 5 per cent of GDP (UNCTAD, 2012, p. 2).

On the positive front, between 2000 and the onset of the financial crisis in 2007-8, the ratio of total external debt to exports for all developing countries fell by around half, “from 128.4 per cent to 58.7 per cent. Measured against GNI, the ratio dropped from 37.8 per cent to 20.6 per cent over the same period” (World Bank, 2011, p. 10). This downward trend however was not to last, as the impact of the financial crisis began to reverse inroads made towards a reduction in unsustainable debt in developing countries, mostly as a result of sluggish growth and falling export earnings. The World Bank reports that:

...export earnings were down almost 20 per cent from their 2008 level, which, combined with increased external borrowing, pushed the ratio of total external debt outstanding to exports up to 74.6 per cent, its highest level since 2005 and close to 30 per cent higher than its 2008 level. The ratio of debt service to exports was similarly affected, increasing from 9.2 per cent in 2008 to 11.3 per cent in 2009 (World Bank, 2011, p. 22).

In the wake of the 2007-08 financial crisis however, small gains are fast being eroded. Debt ratios increased significantly in many countries as a result of attempts to counter the impact of the crisis.

The United Nations World Economic Situations and Prospect 2011 offers analysis of the global economy post financial crisis. The report notes that the fragile recovery of the economy has slowed significantly and it predicts this will continue “as weakness in major developed economies continue to provide a drag on the global recovery and pose risks for the world economic stability in the coming years” (UN, 2011, p. 1). The report maintains that it was intervention by governments that cushioned the impact of what could have been a knock down blow to financial markets. It also notes that the policy response “is expected to be much less supportive in the near term, especially as widening fiscal deficits and rising public debt have undermined support for further fiscal stimuli” (UN, 2011, p. 1). This prediction has also proved accurate as governments everywhere (but particularly in Europe) have moved from stimulus to austerity.

Specific to debt, the UN outlook for developing countries is not optimistic:

Despite investments in the debt position of many developing countries prior to the crisis, some countries, including small and middle-income countries, remain in vulnerable situations. In the wake of the crisis, other developing economies have moved into more critical debt positions (2011, p. 81).
Furthermore, the UN reports that:

...the total external debt (public and private) of developing countries as a share of GDP rose to 24.8 per cent over 2009, and increase of 2.2 percentage points over the previous year, while the downward trajectory of the debt service-to-exports ratio was reversed because of the negative impact of the crisis on the dollar value of both GDP and exports (2011, p. 81).

There have been some positive developments, but rather than stabilise the situation, they have only increased uncertainty. One anxiety, sparked by a recovery in private capital flows to developing economies, is that if investors suddenly develop a taste for risk in emerging markets, this could result in a short term flood of capital into them and potentially result in inflationary pressure which could destabilise markets and currencies. Equally, “there are downward risks to the general expectation of continued robustness in private capital flows to the developing world” (UN, 2011, p. 69). It is not clear that developing economies can survive another spell of economic contraction in developed economies, as this “sharply affect the access to capital of developing economies, especially in emerging Europe, whose financial sectors are closely linked to those of highest indebted countries” (UN, 2011, p. 69).

The outlook for developing countries has certainly changed significantly since the 2007-8 crisis. Many economies already in crisis pre-recession have found themselves driven deeper into calamity. A convergence of problems, including exchange rate volatility among reserve currencies, market turbulence, and unpredictable capital flows, have prompted many emerging economies to accumulate reserves as an insurance measure. This is unlikely to offer effective protection however, as:

...despite the effective use of foreign reserve holdings by emerging market economies to buffer the impact of financial instability, capital outflows from these countries during the financial crisis have highlighted the importance of building a global financial safety net (UN, 2011, p. 71).

This accumulation of foreign-exchange reserves contributes to the unhappy reality that the net transfer of capital still goes South to North, a trend set to continue with an increased widening of current account imbalances. “Developing countries as a group are expected to have continued to provide a net transfer of financial resources, of approximately $557 billion to developed countries in 2010” (UN, 2011, p. 69).

Reflecting this, the UN report notes that the crisis of 2007/08 has had a significant derailing effect on progress towards the MDGs. Difficult to achieve in any case, it is now only more unlikely they will be realised. The report notes that “the crisis has significantly increased the challenge of achieving targets for universal primary education, reducing child and maternal mortality and improving environmental
The extent to which different countries will need to take extra measures to ensure that at a minimum, progress already made towards the achievement of MDGs is not lost, varies significantly. The governments of Ecuador, the Philippines and Nicaragua would have needed to spend an additional 1.0-1.5 per cent of GDP per year between 2010 and 2015 in order to meet the MDG targets for health, education and basic services, compared with the pre-crisis scenario (UN, 2011, p. 15). These costs, when considered in the context of already significant spending commitments to address pre-crisis MDGs targets, are substantial. Indeed, the “challenge for Nicaragua [was] to increase spending for education, health and basic services by 9.5 per cent of GDP during 2010-2015” (UN, 2011, p. 15). Similar efforts were required in Bolivia and Kyrgyzstan, “while in Ecuador, the Philippines and Uzbekistan the estimated additional macroeconomic costs of these policy simulations would be in the order of 3.0-5.0 per cent of GDP” (UN, 2011, p. 16).

Whereas Nicaragua and the Philippines are middle income countries, the cost to LDCs would be even greater, a burden likely to show up in domestic tax increases or the accumulation of more public debt. Where economies have simultaneously stagnated, or growth has not eventuated, the cost would be further inflated. Continued progression towards the achievement of the MDGs would require government spending, but spending has macroeconomic ramifications of its own. If it were to be facilitated by more foreign borrowing, the anticipated exchange rate appreciation would negatively impact investment growth and exports. If spending were to be facilitated by increased tax burdens, or the government sought to borrow from domestic capital markets, growth would likely be impacted by a fall in private consumption, investment spending, or both. There is always a macroeconomic trade-off. The effect of this is magnified where increased spending towards the achievement of MDGs is not paralleled by better productivity. This is not to suggest that investment in education and health does not normally result in better productivity outcomes, just that the benefits are not usually immediate. Indeed evidence suggests the contrary in the long run. The UN notes that “much of the productivity effects of additional action taken today to accelerate progress towards the Millennium Development Goals will likely take effect after 2015” (2011, p. 16).

How to keep spending towards the achievement of the MDGs therefore requires some macroeconomic acrobatics, striking a balance between short-term and long-run goals and employing economic policies that seek to boost productivity and employment growth. Examples would include increased investment in infrastructure and offsetting exchange-rate appreciation. For these policies to work effectively however, they require external economic stability “in the form of a stronger recovery of export demand. This in turn, will require strengthened international policy coordination” (UN, 2011, p. 16).

As the increasing complexity of the situation emerges, the solutions become more expensive and the
funds less readily available, and therefore the numbers of people living in poverty continues to grow. “The International Labour Organisation (ILO) estimates that the proportion of workers earning less than $2 per day increased by 3 percentage points, implying that the number of working poor increased by about 100 million during 2009” (UN, 2011, p. 4). Even if austerity did not require precious funding reserved for social protection measures to be sacrificed, the growing size of the problem would have meant that those resources would somehow have had to be stretched even further and do even more. Increases in unemployment and cutbacks in government expenditure for social programs has both halted progress and in many instances seen it slide backwards. Over the last four years, UN data estimates that there are “between 47 million people falling into or staying in extreme poverty because of the global crisis” (UN, 2011, p. 5).

The Relationship between Debt Cancellation and Debt Sustainability

There is widely assumed to be a relationship between debt cancellation and sustainability, however this is not necessarily self-evident. The intuitive assumption is that debt cancellation is a precursor to greater debt sustainability, but there is little evidence to suggest that cancellation (in the amount in which it currently is being approved) has such a transformative impact. This is because a nominal amount of debt cancellation does not automatically lead to an equivalent amount in cash flow gains. These gains are more likely to come about over a period of time, and are reflective of the original debt and how it has been serviced over that time-frame:

To take into account both the volume of debt relief and the time dimension, the Present Value (PV) of future debt service payments relieved is used as the appropriate summary indicator of the cash flow gains (Cassimon, 2013, p. 3).

Central to this understanding is the reality that the amount of debt service due on paper is unlikely to ever have been serviced. Where there is cancellation of debt that was never likely to have been serviced, no liquidity advantage is conferred by the cancellation. Indeed, “in some cases, the direct cash flow effect on recipient government resources may be close to zero” (Cassimon, 2013, p. 3). According to Cassimon, “in total, HIPC debt relief so far amounts to about 60 billion USD in PV terms, less than half of which can be considered as additional resources” (Cassimon, 2013, p. 4).

Under the HIPC program, most of the debt relief is offered at completion point, with the expectation that the amount given is sufficient to return a country’s debt to sustainable levels. Critics contend that this formula fails to allow for the accumulation of new debt. In order to continue to run their economies, many HIPC countries will borrow after having received debt relief, a situation further
aggravated by the general decline in ODA, or the double counting of debt relief in with ODA. The General Accounting Office of the U.S. government contends that due to revenue and GDP growth not meeting expected levels, many HIPC countries will require increased donor assistance. It notes that the debt levels of seven countries studied are likely to continue to rise after receiving relief, as in order to have the funds necessary for poverty reduction, they must continue borrowing at the same rate as during the years prior to qualifying for HIPC. Pointing to Tanzania as an example, the office notes that it will not be able to repay its debt unless loans and grant flows increase by more than 30 per cent, which only re-starts the cycle that debt relief is presumably trying to end (Mutume, n.d. para 4).

Cheru (2006) is damming in his critique of this debt spiral, noting that:

...the reason for this arbitrary approach is not difficult to figure out. For 25 years, the guiding principal of official debt relief has been to do the minimum necessary to avert default but never enough to solve the debt crisis. A mixture of debt relief and repeated rescheduling operations so far has prevented extensive default on Africa’s debt. Indeed between 1987 and 1996 there were 166 debt-restructuring agreements with official creditors in the Paris Club, of which 96 cases involved African countries (United Nations 1998: 172). Although these debt-restructuring initiatives helped to reduce some debt, their overall impact on reducing the debt burden of poor countries was negligible, as these proposals gave considerable latitude to participating creditor countries to take the strategy that was least costly to them. The HIPC Initiative, though presented as a major break from past practices, is guided by the same logic of damage control (p. 43).

In an effort to prevent the HIPC Initiative from becoming a permanent fixture, a sunset clause was proposed in 1996. It recommended that HIPC be open to countries that implement the IMF and World Bank programmes for a two year period, at which time they be subject to a progress review and a recommendation to continue with, or cease participation in, the programme. In 2006, the IMF and World Bank zeroed in on a list of countries eligible (or potentially eligible) to continue to participate in the HIPC programme, with the caveat that it would be able to update the list with reference to end of year data for 2004. Most notably Afghanistan was added to the list and reached decision point in 2007, although significant questions remain “on how debt relief will be extended to those countries that failed to reach the decision point by the cut-off date or do not have the same strategic geo-political importance as Afghanistan” (Mutume, n.d., p. 5). The sunset clause, after having been extended four times, expired in December 2006 and irrespective of how unsustainable a countries debt levels may be, if they failed to meet the HIPC eligibility criteria in 2006 they were not able to enjoy the benefits of HIPC or MDRI debt relief despite new debt vulnerability and distress.

This is certainly one of the greatest misnomers of the HIPC program. Putting aside whatever has, or
has not, been cancelled, has it succeeded in transforming the debt burdens in poor countries into something sustainable? Even for those countries who it is claimed have reached debt sustainability, it is only considered sustainable in the here and now. Unfortunately the DSA and:

...initiatives to promote responsible future lending and borrowing although both valid, cannot in itself assure long-term sustainability, due in part to the remaining vulnerability of those countries to (negative) external shocks (Cassimon, 2013, p. 4).

Cassimon argues that without “innovative schemes to increase the contingent nature of debt claims, better matching debt service due with capacity to pay evolutions” (Cassimon, 2013, p. 4), debt cancellation is almost certainly going to fail to bring debt sustainability. In order for the program to work, it would need to be on-going and flexible and not encumbered by an arbitrarily fixed end point. As Kaiser points out:

...debt relief is like putting out a fire: It is absolutely necessary, but it does not guarantee that the house won’t be on fire again. This is why a deliberately one-off relief scheme like HIPC has necessarily been an insufficient answer to systemic crisis (Kaiser, 2013, p. 6).

The threat of renewed debt distress for countries that have completed the HIPC program and supposedly reached debt sustainability is significant. According to Kaiser (2013, p. 6), sixteen Low Income Countries (LIC) face the likelihood of renewed debt distress, seven of which have already made it past completion point. There are also many post-conflict countries unable to qualify for the program that did not receive any debt relief and continue to face unsustainable debt situations. In fact many countries with unsustainable debt burdens were excluded from the program. For example, “several small Caribbean economies (Belize, Dominica, Grenada and Jamaica) that are characterised by high levels of external debt, and some Caribbean economies also have high levels of domestic public debt” (Li, 2013, p. 11). Kaiser notes that “nobody on the creditors side, who for so long have set the tone on sovereign debt, has any clue, how one of these countries could negotiate any post-HIPC debt relief” (Kaiser, 2013, p. 6).

In order for debt cancellation to have a meaningful impact, it must be sufficiently generous to support a development strategy, and therefore needs to go beyond a situation where debt cancellation is only a consideration of unpaid arrears, or where the amount of debt cancelled is subtracted from ODA, which has been the case in a number of countries:

These countries were not able to take advantage of an additional amount to finance their development strategy, since the overall amount of ODA was reduced and/or the debt relief went to finance past debt, instead of new projects (Zacharie, 2013, p. 12).

The resurgence of debt distress in developed economies only re-enforces what the UN has described
as the “urgent need for setting up an international sovereign debt workout mechanism which would allow countries to restructure their debt in a timely and comprehensive manner” (UN, 2011, p. ix).

The UN reports that “since budget deficits have widened sharply, public debt of developed countries will continue to increase, even under conservative assumptions, surpassing 100 per cent of GDP on average, in the next few years” (2011, p. ix). This outlook is reasonably mind-numbing, particularly given the fraught new relationship between debt and the banking sector, resulting from the worst financial crash in decades. The UN notes that:

While Governments have guaranteed vast amounts of bank liabilities, banks have been purchasing large amounts of government securities. As a result, a heightened risk for the financial health of one of these two parties will feed into the other, possibly forming a vicious circle that could amplify the risk throughout the whole economy (2011, p. x).

A UN Perspective on the Future of Global Debt

The UN has been one of the most consistent and vocal commentators calling for a rebalancing of the global economy and it has gone to great lengths to stress the urgent and complex nature of this task, warning that if a measure of balance is not achieved within the global economy, financial markets will almost certainly be rocked once again. The UN contends that attempts to address these imbalances is subject to the degree to which economies are capable of making structural adjustments, however:

...the path of these adjustments is unclear, particularly given the uncertainties about how the risks of a further slowing of growth and the persistence of high rates of unemployment, sovereign debt problems and further exchange rate instability will all play out (UN, 2011, p. 31).

The uncertainty which infuses the UN outlook mirrors that which rankles both the discipline of economics and the process of policy formulation. When unsustainable debt was considered a feature of wayward, poorly managed economies, exit from debt strategies and plans for grand scale economic restructuring were pronounced with a zeal and authority that has vanished in the havoc wrought over the last five years:

Even if the global imbalances do not edge up significantly in the near term, the underlying adjustment in stocks of international asset and liability positions would continue to move in a risky direction, particularly as the global financial crisis has caused a surge in net foreign liabilities of the United States (UN, 2011, p. 32).
There are however, some small but important gains to be celebrated. The recovery of international trade has predominantly been led by low and middle income countries. Developing countries have established South-South linkages which have proved beneficial to smaller economies in Latin America and Africa. The international primary commodities market has bounced back with some resilience largely as a direct result of the quietly growing demand in developing economies. The fall in demand from the developed economies has ever so slightly evened the playing field; where rising tides failed to raise all ship, sinking tides may have levelled them somewhat:

The 2010 [Development Cooperation Forum] DCF stressed that several features of South-South cooperation set it apart from North-South cooperation. These include the typical absence of policy conditionality, the establishment of horizontal relationships, and the often high degree of complementarity between the cooperating parties. These features are among the reasons the DCF recommend that South-South co-operation need not be subject to the principals of harmonization established by OECD donors (UN, 2011, p. 77).

These gains however, are not sufficient to negate the fallout of the crisis for developing economies. Whilst the UN speculates that average per capita income growth for developing economies is likely to re-emerge at pre-crisis rates eventually, this will not recoup the ground already lost in the interim. Nor are LDCs a homogeneous group, but are each buffeted by their individual political and security situations and climate. The LDCs most adversely affected by externalities are Comoros, Eritrea, Haiti, Madagascar, Nepal, Somalia, Togo and Yemen (UN, 2011, p. 8). The ability to achieve real progress in countries such as these depends on the ability of them to secure stability within the state. High crime rates, in particular problems of drug trafficking, also play a role in the level of order a state can enjoy. This in particular seems to be a problem for “many coastal West African LDCs (the Gambia, Guinea, Guinea-Bissau, Liberia, Senegal and Sierra Leone) where drug trafficking is undermining the security situation as well as efforts to strengthen governance and the promotion of the rule of law” (UN, 2011, p. 8).

A commonly cited fear in developed economies is that the winding down of stimulus will slow, and perhaps sabotage, recovery. A slowed recovery translates into high unemployment, budget deficits and the accumulation of debt as a result of poor output growth. This conundrum typifies the precariousness of economic policy formulation post-crisis. The success of debt management always depends on what happens to growth, and growth is difficult to predict. What most economists will concede is that austerity impacts growth in negative or at least unpredictable ways:

Developed countries with less fiscal space that already have high public debt ratios and flow costs may see few options but to engage in fiscal consolidation, but they would risk entering into vicious debt dynamics anyway if the consequent demand contraction cannot be offset by other sources of growth, including export growth, which would require demand
Given that this is a credible fear for developed economies that already benefit from reasonably good growth prospects, the inevitability of the failure of adjustment policies which advocated savage austerity measures in developing countries with already poor growth prospects ought to have been obvious.

Whether austerity is the right policy approach post-crisis remains a contested point, although mounting evidence seems to lean towards the Keynesians, who speculate austerity will result in a fall in household demand in developed economies, which will have a knock on effect for global trade (given that pre-crisis global growth was fuelled by consumption in developed economies). Furthermore, currency volatility and exchange rate instability could see countries introducing new protectionist measures as a balancing mechanism. Unpredictable exchange rates, troughs in household demand, increased protectionist measures and rising unemployment all have the potential to send global growth and financial markets into a tailspin once again.

It is for these reasons that it could be argued that the global financial crisis has made a space for the most significant array of economic policy experimentation since structural adjustment was introduced. Since 2009, policy discussion has been fraught and litigious, particularly concerning fiscal stimulus, tax and exchange rates:

Facing close to double digit unemployment, stagnating employment rates and the uncertainty regarding the strength of the economic recovery – particularly as there seems to be no end in sight for the continued sizeable foreclosures – the United States has been vigorously debating the case for a second federal fiscal stimulus package. But the likelihood of new fiscal stimulus has evaporated following the election results of November 2010 (UN, 2011, p. 35).

On the other side of the pond, the European crisis has rocked confidence in everything from the single market to the belief in a collective European identity.

The question of how to maintain autonomy and camaraderie in such uncertain times, and in such close proximity, seems paramount. The depth of the crisis in Greece, and to a lesser extent, Ireland, has highlighted the tension that still exists between European states. The stark differences in policy approaches between countries like France and Germany seem irreconcilable as governments strain away from each other and towards their local electorates, putting immense pressure on the future of the union. Reserves of patience and commitment which are needed to incorporate perspectives and drive the European project forward seem precariously low, and a prosperous, integrated future most unlikely. The French, as advocates of fiscal stimulus, are juxtaposed against the Germans, who support fiscal consolidation, and such differences are not easily resolved.
The level of conflict being experienced in Europe however is being mirrored across the globe. Governments everywhere seem to be boarding the blame train at different stations, usually destined for monetary and exchange rate policies. China has been accused of sabotaging attempts to correct global imbalances by resisting currency appreciation. Emerging economies such as China however, do not concede this accusation, arguing that the global imbalances are a result of over stimulus and a policy of wanton quantitative easing “that has been causing exchange-rate volatility among major reserve currencies and a flood of short term and volatile capital to flow their way and put upward pressure on their own currencies” (UN, 2011, p. 36). These anxieties go to the heart of what are deeply divergent approaches to the nature and place of policy in managing the economy. The level of co-operation that would be needed to bridge these impasses is significant. Whilst the problems of achieving global policy harmonization are manifold, “recognition that the world economy is still fragile, and that current uncoordinated policy stances risk adding insult to injury, should suffice to motivate and forcefully seek coordinated solution” (UN, 2011, p. 26).

No matter how unlikely it is that advice from the UN be incorporated into policy formulation, suggested major policies to promote growth and increased security in the global economy have been offered. Unsurprisingly, they do not reflect the structural adjustment policy measures that poor countries were advised to implement in order to promote growth in debt devastated economies of the global South since the 1990s.

**Financial Crisis and Representations of Neoliberalism**

The awarding of the Nobel Prize for Economics to Milton Freidman and Hayek in the 1970’s signalled a paradigm shift in what were considered the agreed upon principals of sound economics at the time. The election of the Thatcher (1979) and Reagan (1980) administrations further cemented this development:

In Britain and the United States, the struggle against inflation and the power of trade unions now began in earnest. Just as history sees in the October 1929 Wall Street crash the beginning of the Great Depression or in the breaching of the Berlin Wall the end of the Cold War, so it should see in the election of the Thatcher government, as James Callaghan even at the time discerned, the beginning of the neoliberal era (Manne in Manne & McKnight, 2010, p. 9).

Promoting the single effectiveness of the actions of self-interested actors operating in free markets in ensuring national prosperity and growth and championing ‘the invisible hand of the market’, this profound ideological shift has had equally profound social consequences. Over the last forty years
(within the economies of advanced capitalism) social inequality has flourished:

Between the mid-1970’s and 2006, the gross domestic product of the United States trebled; the level of labour productivity almost doubled; the Dow Jones Index rose from 1000 to 13000. Yet astonishingly enough, during that entire period, according to several studies, the income of the average American worker and family essentially remained stagnant (Manne in Manne & McKnight, 2010, p. 13).

Furthermore, over this same period the top percentile has accumulated a wealth that boggles the mind. “A decade before the financial crisis, the three richest human beings on the Earth owned as much as the poorest 600 million” (Manne in Manne & McKnight, 2010, p. 13).

The central premise of the neoliberal program is that markets are self-correcting and that government intervention in them is counter-productive. However “following the bankruptcy of Lehman Brothers and the freezing of the financial markets across the globe, virtually no-one behaved as if they believed this to be true” (Rudd in Manne & McKnight, 2010, p. 28). Acting collectively, but without formal collaboration or consensus, government intervention across the globe was most deliberate, as banks, insurance companies and brokerage houses implied the unviability of the global economy should they not do so. The received wisdom became not that governments ought to intervene because these institutions should be spared failure, but rather governments must intervene because these institutions could not fail. “Governments, across the globe, (...) now injected capital into the banks or guaranteed their deposits or decided that there was no alternative to at-least temporary nationalisation” (Rudd in Manne & McKnight, 2010, p. 28). As the bail-out and stimulus dollars were made available, round tables of the G20 began to draft new regulatory architecture to ensure the future security of the international financial system, and it became impossible to deny that when markets fail, government intervention is the last line of defence against the ineluctable onset of depression. As Manne contends:

In the face of the crisis, the market was completely powerless. If the banks and the brokerages had been asked to rely on the invisible hand of the market to sort out the mess their involvement in the derivatives trade had created, the world economy would have passed into free fall (Manne in Manne & McKnight, 2010, p. 27).

No matter how beautiful the idea of self-correcting markets, the invisible hand did not prove to be a better and more effective substitute for government intervention. In fact “almost everyone now recognised that, in different circumstances, both market forces and government actions had their place” (Manne in Manne & McKnight, 2010, p. 27). Economists who had much questioned the orthodoxy of the neoliberal program re-asserted their critique. Long marginalised they found themselves thrust into a ferocious debate taking place within a discipline in relative flux. Stiglitz noted
Most of the individual mistakes boil down to just one belief: a belief that markets are self-adjusting and that the role of government should be minimal. ...The embracing by America – and much of the rest of the world – of this flawed economic philosophy made it inevitable that we would eventually arrive at the place we are today (Stiglitz, 2009, para 8).

The arrival of stagflation in the 1970's served as the catalyst that economic policy makers needed to support the launch of a new paradigm whereby Keynesianism, which had overseen 50 years of prosperity, was supplanted. Friedman himself conceded in his Nobel Prize acceptance address in 1970 that it was not that the ideas espoused in the modern economic program were better, but rather the arrival of stagflation provided the leverage of sufficient doubt needed to herald in a new direction. Similarly, since the crisis of 2007/08 Keynesian economists have enjoyed an unexpectedly comeback. As Manne points out, “James K Galbraith, now joked that since the arrival of the financial crisis, he had moved from the margins to the mainstream without changing a single idea” (Manne in Manne & McKnight, 2010, p. 27).

Part of the broad appeal of the neoliberal program rested on an ability to sell the idea to “non-economists among the political class that they represented the collective wisdom of the most successful discipline of the social scientists – economics” (Manne in Manne & McKnight, 2010, p. 30).

What made this sentiment unconvincing in the cold light of crisis was that the advocates of the program had failed to prevent, or even alert governments to the impending disaster:

More deeply, mainstream economists had talked with growing confidence about the end of depression or recession economics and the arrival of a new era of stable economic growth, which Ben Bernanke had christened the ‘Great Moderation’ (Manne in Manne & McKnight, 2010, p. 30)

This analysis in particular turned out to be deliriously incorrect, changing the mood within academic circles and the discipline of economics significantly. Since the crisis:

...two eminent economists, George Alkerlof and Robert Shiller, now published a book with the Keynesian title Animal Spirits, which questioned the worth of a discipline whose fundamental assumption – that human always behave rationally and on the basis of self-interest – was so self-evidently false. And from the grave, a minor Keynesian, Hymen Minsky, who had theorised about the wild speculation and Ponzi finance that long periods of unregulated financial stability would inevitably bring, was hailed as a prophet of the present discontents (Manne in Manne & McKnight, 2010, p. 30).

Whilst some have rejected the neoliberal program outright, others have offered a more conservative
critique, noting that it is not sufficiently evolved to manage the enormously complex mechanisms of a global and globalised economy. Rudd notes that:

"...two unassailable truths have already been established; that financial markets are not always self-correcting or self-regulating, and that government (nationally and internationally) can never abdicate responsibility for maintaining economic stability. These two truths in themselves destroy neoliberalism’s claims to any continuing ideological legitimacy, because they remove the foundations on which the entire neoliberal system is constructed" (Rudd in Manne & McKnight, 2010, p. 78).

In the literature at least, social democrats in particular seem to have offered a balm to soothe the uncertainty inflicted by unstable and greed driven financial markets. “For social-democrats, systemic stability and integrity represent public goods in their own right – public goods which will always take precedence over individual opportunities for profit maximisation” (Rudd in Manne & McKnight, 2010, p. 78). As the holes in the neoliberal program began gradually to become apparent, they suddenly seem most obvious indeed; “as Stiglitz has caustically observed: ‘the reason the invisible hand often seems invisible is that it is often not there.’ Financial markets have not self-corrected” (Manne in Manne & McKnight, 2010, p. 13).

It is also worth noting that many economists have for years decried the program as aggressive, destructive, and socially irresponsible. One of the most outspoken and consistent commentators on this issue has been Stiglitz, who refers frequently to the neoliberal program as ‘market fundamentalism’. He has long campaigned against IMF policy prescriptions for developing countries, considering them dangerous and counter-productive. According to Curthoys, Stiglitz claims that:

"IMF neoliberal policies were advanced without consideration of circumstances or alternatives – policies of fiscal responsibility and market liberalisation so flat-footed that when implemented they deepened the East-Asian financial crisis, opened the way for the oligarchs in post-Soviet Russia, and in many poorer countries deprived the countries of necessary credit. Policies, in short, that had to be ‘made to fit’ social reality and did so only ‘ineffectively, ruinously’; policies that gave answers when policymakers should have been thinking more about the questions. Although well aware of the way in which neoliberalism was a ‘mask’ for certain interests (mainly those of New York investment banks), Stiglitz came to the same conclusion as Robert Conquest: ‘What was at issue, then…is a matter of ideas.' (Curthoys in Manne and McKnight, 2010, p. 46)

The post-mortem has indeed divulged the full impact of a pugnacious instance on a neoliberal program. Deaf to the protests of many academics, activists, politicians, economists and social scientists, it has facilitated social and economic humiliation in almost all of the poor economies in
which it has been implemented. When faced with the supposed robustness of developed economies, this was regarded as a matter of conjecture. Developing economies were sentenced to tough love; a gruelling maturation process on the long and winding road to prosperity, and certainly the chinks in the armour where harder to expose when the warrior it shielded seemed so impenetrable. But now, with the curtain pulled right back, the neoliberal project seems like a devastatingly contrived venture:

The tragedy is that after decades of neoliberal ascendancy, the IMF, Keynes’s child from Bretton Woods, for a time became the agency through which neoliberal doctrines were spread around the world – to the detriment of the fund’s long-term standing and with a real impact on its capacity to act effectively in the current crisis with the various national economies it has treated poorly in the past (Rudd in Manne & McKnight, 2010, p. 82).

Yet even though HIPC countries have been in the throes of a catastrophic debt crisis for some forty to fifty years, and even as the financial crisis in the North has finally highlighted that the orthodoxy implemented in developing economies designed to help them exit the debt crisis has had the exact opposite effect, developing economies still arrive in last and most certainly least on the priority list:

The impact of the crisis on poverty and stability in the developing world has not fully registered in the global debate about policy responses to the crisis so far. World Bank intervention, bilateral official development assistance and the continued implementation of the Millennium Development Goals become essential elements in managing the effects of a crisis that will otherwise throw much of the developing world back into poverty (Rudd in Manne & McKnight, 2010, p. 82).

The welfare of developing countries, both of their economies and citizens, will likely never be high on the agenda before they achieve proper representation in the institutions that so prodigiously impact them. As it stands, not even the larger developing economies, those with a very real role in the future economic security of the North, enjoy serious representation in the institutions of global financial governance, a matter of consideration in the following section of this research.

One further point warrants attention here. The rejection of neoliberal program in the aftermath of the crisis belies a far deeper and more sinister question. The behaviour of both governments and financial institutions in response to the crisis can only be categorised as a one hundred and eighty degree turn away from the tenets of neoliberalism and towards Keynesianism (or versions of it):

Even the originally Keynesian International Monetary Fund, which the neoliberals had taken possession of in the early 1980s, now suddenly seemed to revert to its origins by urging governments across the globe to embark immediately on a $6 trillion dollar spending programme. It was as if Keynes had not been killed off by the neoliberals, as was generally believed, but had merely gone into exile and waited patiently for the kind of crisis that would
allow him to make a triumphant return (Manne in Manne & McKnight, 2010, p. 18).

Seemingly, and without consultation, governments and financial institutions behaved as if they had *always known* that this was the appropriate response to financial *crisis*, and debt crisis in particular. If these governments and institutions had always known that this was the singular response to debt crisis, why had they insisted on imposing the very opposite policies, which failed almost without exception and repetitively, in the global South for so long?

Keynes argued that the Great Depression would have been avoidable if governments had responded differently, by stimulating demand rather than striving to balance budgets. An interpretation of this, tailored to accommodate financial markets, is exactly what governments did in response to the crisis of 2007/08. This has never been what governments have prescribed as a policy response to the debt crisis in the global South. The policy prescriptions for developing countries seeking to exit situations of unsustainable debt have been inflexibly and rigidly austere. Even when these policies have failed, this has not be interpreted as a reconsider the course, which raises the obvious question; why not?

Raffer, in his assessment of the Asian and Mexican crisis is similarly confused:

> Why did neither IBRD nor IMF (both not normally known for their restraint in giving advice) warn Asian countries to proceed more slowly with cautious sequencing as they do, meanwhile pointing at already available evidence, instead of supporting too quick liberalisation and applauding inflows of volatile capital? IBRD (1999, p2) fails to produce a credible answer, stating instead that 'decision makers overlooked the failure of the Asian countries to comply with the basic tenets of the much abused Washington consensus'. Summarizing that Mexico fulfilled most of the consensus conditions, but east Asia did not, the IBRD presents 'The conclusion: Washington consensus policies were neither the cause of high growth, or the cause of the crisis (ibid.).' (2010, p. 31).

This research contends that the Keynesian nature of the response of governments to the 2007-8 financial crisis creates a serious ethical dilemma. It is difficult to logically counter the claim that IFIs have imposed one set of economic policies on poor countries and reserved an entirely different policy set, or even ideological framework, for the economies of advanced capitalism in crisis. At the very least, what can be inferred from such events is that IFIs do not act fairly, or certainly they act differently dependent upon whose interests and welfare are under consideration.

The scope of this research is too limited to investigate the motivations of policy strategists within IFIs prior to, and post, the 2007-8 financial crisis. Nor have IFI’s been particularly receptive to criticism in this regard, as noted by Raffer, who has for over a decade levelled accusations of this nature, most of which have not elicited a response. Highlighting the inconsistent nature of IMF and World Bank economic policy prescriptions is to lend weight to the intuition that these institutions cannot be relied
upon to act fairly:

Stated simply, the verdict on neoliberalism in general, and financial deregulation in particular, remains what it ever was: an economic policy of the wealthy, by the wealthy, for the wealthy (Prasch, 2010, p. 186).

The best interests of a state are protected firstly and most reliably by the state itself. For this reason economic policy as prescribed by IFIs, or indeed any agent external to the state, cannot be given priority over a state’s own obligations to preserve human rights (including the right to sovereign governance) within its own borders. The history of IFI policy involvement in the global South is a case in point.

Manne contends that “all political ideologies in the end are evaluated according to their consequences” (Manne in Manne & McKnight, 2010, p 11) and this has proved true for advanced capitalist economies. Where the neoliberal program could not resolve crisis, it was summarily abandoned in favour of policy prescriptions that were at least more likely to avoid a deepening of it. The same has not been true for countries of the global South. They were coerced into the broad application of an obdurate political agenda that has devastated not only economies but whole societies. In spite of this, no one party has been called upon to answer a charge of negligence, incompetence, conflict of interest or depraved indifference. It would seem that no-one is responsible. This further galvanises the case for governments of poor countries to increase measures to protect the autonomy and sovereignty of their national economic policy agenda.

Even in these bleak moments of protracted economic crisis however, optimists press the possibility that from the chaos breeds change. Rudd contends that:

From time to time in human history, there occur events of a truly seismic significance, events that mark a turning point between one epoch and the next, when one orthodoxy is overturned and another takes its place….There is a sense that we are now living through just such a time (Rudd in Manne & McKnight, 2010, p. 79).

There may well be a sense of it, but there does not seem to be much evidence of it. Insights gained in economic thinking since 2007-8 seem to have been judiciously ignored in economic policy negotiations between the Troika and the Greek government. The advent of the 2007-8 crisis proved the catalyst for the type of ideological debate that has been absent the policy spectrum for nearly a half century. The ideas of social democrats, Keynesists and social welfare economists have been infused with new validity however the re-orientation taking place within the engine rooms of economic scholarship is not really being translated into any meaningful shift in policy articulation. The resilience of the neoliberal program when confronted with both systemic crisis and theoretical critique is both singular and alarming.
CHAPTER THREE: THE STRUCTURAL ADJUSTMENT PROJECT AND DEBT DEFAULT

Don't you know that what happens to you once always happens again? You always react in the same way to the same thing. It's no accident when you make a mess. Then you do it again. It's called destiny.

Caesare Pavese 1949 p.327

At its simplest the idea of ‘structural adjustment’ refers to the policies implemented by agencies like the IMF and World Bank which spell out the conditions which a developing country needs to meet if they are to continue to either receive new loans or else negotiate lower interest rates on existing loans. The idea of ‘structural adjustment’ itself is derived from the way ‘Structural Adjustment Programs’ were established by these agencies ostensibly with a view to reducing any of the usual signs of debt such as excessive public sector deficit, high debt levels or fiscal imbalances. As writers like Greenberg (1997, pp. 85-93) have noted, ‘Structural Adjustment Programs’ are designed to allow the economies of the developing countries to become more ‘market oriented’ on the grounds that this will force them to concentrate more on trade and production so as to boost their economy. The implicit ethical and political assumptions at work which undergird the policy of providing financial capital on condition that the developing country embarks on a ‘reform’ process is reasonably apparent in claims made by Dollar and Svensson (2000, p. 894) that note that:

Development assistance shifted to a large extent in the 1980s from financing investment (roads and dams) to promoting policy reform. This reorientation arose from a growing awareness that developing countries were held back more by poor policies than by a lack of finance for investment.

This claim rests on an idea that we ought to treat structural adjustment programs as a politically neutral technology of policy which produces ‘good’ policy: as Dollar and Svensson (2000, p. 896) put it:

... one should view conditional aid primarily as a commitment technology: it provides an opportunity for reformers to tie their own hands, in the same way that membership in the World Trade Organisation commits a government to good policy and insulates it from special-interest politics.

As will become evident this has not been the case. Certainly the ways in which problems of
unsustainable debt have been diagnosed and structural adjustment policies prescribed has proved reflective of political realities.

This chapter will explore structural adjustment programmes and debt default, for how they have been represented by orthodox economists and policy makers and what the impact of them has shown to be in reality. It will become obvious how little resemblance the representation of these situations and their reality bare to each other. The purpose of this is to show that structural adjustment has been far more damaging in reality that the theory that supports it has conceded, and that debt default is far less catastrophic in reality than the theory that warns against it has pretended.

**How Structural Adjustment Programs Are Accounted For**

Structural adjustment has been called many names over the past thirty years, not the least unsettling of which is ‘shock therapy’, as it came to be termed by the IMF throughout the 1990s. As Özden notes, whatever the title, whether it be the Structural Adjustment Facility, the HIPC Initiative, the Long Term Strategic Framework for Poverty Reduction, or Poverty Reduction and Growth Facility which was previously known as the Enhanced Structural Adjustment Facility “they are all essentially structural adjustment programs and have the same thing in common: the conditions they impose from the outside” (2007, p. 4).

The mantra of adjustment has broadly been privatisation and deregulation, and includes conditions demanding that participating countries reduce or abolish trade barriers and tariffs, reduce or abolish subsidies to their businesses, privatize public utilities and state-owned businesses, constrain government expenditure, and eliminate their controls on currency and capital. Such measures radically restrict the ability of the state to promote domestic industry and provide social services. In the historical accounts of global economic development, no country has ever industrialised under these conditions.

This economic policy approach is driven by the conviction that the manner in which economic activities are organised ultimately predicts the level of development a country can achieve, and that the best method of organising economic activity is to regulate the parameters of state intervention. Responsibility for development is transferred to the private sector, which is assisted by the state’s efforts to foster appropriate macroeconomic conditions and build sufficient institutional infrastructure to allow the market to operate unencumbered. The role of the state is to actively remove barriers which would cramp the free and full operation of markets, including taking measures to better participate in the global economy. Disciples of this school argue this will eventually catapult
developing economies onto an equal playing field, whence upon they can enjoy mutually beneficial trade relations and engage competitively with advanced industrialised economies; the definitive poverty alleviation strategy.

Champions of adjustment, or versions of it, argue that broad-based economic growth is the key to poverty reduction. The problem however is this; it has not necessarily been the case that economic growth has positive outcomes for the poor, and furthermore there are contesting views regarding how economic growth is achieved in the first place (Banerjee & Duflo, 2011, p. 267). As Chang (2003) notes, structural adjustment policies effectively “kick away the ladder” (p. 21) of subsidies and protectionist tariffs that were necessary for OECD countries in order to facilitate a climb from agriculturally based economies to economies based on high value urban goods and services. Nevertheless, the World Bank and IMF define one of the key objectives of their economic policy program as the achievement of growth, the ultimate the ends that justifies the means of adjustment.

Advocates of adjustment argue that it has positive benefits that are impossible to measure, as most stem from ‘trickle down’ effects; short term pain supposedly delivering long term gain. According to this thinking, in the (very) long run, the cumulative result of adjustment should be less poverty:

This group would argue that output was supply determined, and therefore the demand restraint did not reduce economic activity and more economic use of resources created scope for provision of a safety net for the poorest groups (Rahman, 2000, p. 9).

Dissenting voices contend that this is simply an elegant theory which’s lacks any practical example to support its veracity in implementation. One should not forget either, the political dividend paid out to the BWIs from the implementation of these economic policies. For them, the aggregate result of adjustment has been that they have:

...gained dramatically in importance. Acting as judges, jury, expert and bailiff in their own cause, public creditors forced debtors to accumulate further unpayable debts and to 'open' their economies much more than creditor governments themselves would accept (Raffer, 2010, p. 35).

In any case, whether or not growth is a panacea for poverty has never been the first priority of adjustment, which has always been to ensure that debt, along with the accumulated interest, be repaid. This has been a task in securing the validity of debt, meaning that the indebted countries must regularly pay the service on their debt. “Full repayment of the principal borrowed is a secondary – even undesirable – consideration, the idea being to assure a continual drain on the resources of the indebted countries” (Özden, 2007, p. 4).
Structural Adjustment in Practice

The seemingly endless rounds of initiatives introduced to deal with the debt crisis began with the realisation that responses to the 1982 Mexican crisis had not worked. In September 1985 the five largest industrial countries met in New York to forge a new way forward. Spearheaded by the U.S Treasury Secretary James A. Baker, the Baker Plan was presented at the World Bank and IMF annual meeting in Seoul a month later. The plan allowed for $29 billion in new financing for borrowing countries over a three year period. The World Bank was to provide a third of this and commercial banks the remainder (UNDP, 1999, p. 13). The objectives of the Baker Plan were to increase commercial bank lending, police borrower countries compliance with significant structural reforms, and ensure the plan remained voluntary. The debt crisis was decided to be one of liquidity rather than solvency and the intention therefore was to continue to provide finance in order to afford governments the space to clean house so they could recommence repayment. Developing countries were expected to follow a number of conditions in order to avail of these loans, including raising taxes, raising tariffs and devaluing currency. Given that with the implementation of these policies, countries were expected to grow their way out of debt, the idea of debt forgiveness was never considered.

In reality however, “as commercial banks decreased their debt stock in the Baker countries, the official lenders increased theirs. In short, a slow transfer of private debt to public debt was occurring, without a corresponding resolution to the underlying debt crisis” (Vásquez, 1996, p. 2). As it became obvious that developing countries were falling further into debt rather than emerging from it, a new initiative entitled the Brady Plan was introduced by Secretary of the Treasury Nicholas Brady in 1989. The Brady Plan was designed to encourage commercial banks to voluntarily reduce debt by rewriting existing contracts and exchanging debt for either secure liquid assets (on better terms) or cash. A portion of outstanding debt was replaced with ‘Brady bonds’ which would have both a lesser face value and a longer repayment schedule (UNDP, 1999, p. 15). Raffer notes that:

...after defending the illiquidity theory for some years BWIs seemed to have forgotten their own arguments and analyses, as well as that the policies advised to (or forced on) debtor countries by them were based on this error (2010, p. 20).

As a result, the IMF and the World Bank secured their directorial role even further, particularly with respect to countries in Latin and Central America; “the BWIs embraced the 'Brady Plan' as fully as the 'Baker Plan', although it was the exact opposite of their own opinion held so far, possibly so because they gained increased importance” (Raffer, 2010, p. 20). In general, the plan was received with much cynicism, “one observer noted that the plan could be ‘compared to an offer to sell fire insurance at bargain rates in a town where half the people are arsonists’” (Vásquez, 1996, p. 2).
The stipulated objective of the first round of adjustment was economic stability, however it faced significant criticism for its blinkered focus on short run deflationary and stabilisation measures and whole scale approach to state restructuring. Hertz describes the loans extended during this time as coming with “a never-ending, it sometimes seemed, list of detailed conditions. Some countries were aghast to find that their loans had as many as one hundred distinct conditions attached” (Hertz, 2004, p. 102).

Analysis of structural adjustment post-facto is eviscerating. Critics point out that reductions in trade barriers and cuts to subsidies have ruined domestic businesses unable to compete with highly developed foreign multinationals; that public utilities have been sold off to foreign investors (the only agents able to afford them) in massive rounds of privatisation; that developing economies forced to limit themselves to one or two main exports have been made more vulnerable to sudden price fluctuations in international commodity markets, and that currency-and-capital-control deregulation is now widely recognised to have intensified the currency crisis in Asia. In spite of this, how to actually account for the failure of adjustment is a matter of some disagreement as the impact varies from country to country and analyst to analyst.

What is clear is that structural adjustment has drastically re-ordered value systems within communities. The architects of adjustment openly championed a “fundamental shift in policy focus, in the priority accorded economic issues as against social/human development issues and in the approaches to addressing these” (Melville, 2002, p. 3). Oriented almost exclusively towards economic objectives, precious little attention was focussed towards how adjustment impacted the living conditions of the people expected to bare it. The goal of economic growth trumped the immediate pain of deepening poverty for already vulnerable citizens. The advice of the IMF and the World Bank to governments of poor countries has always been to prioritise the debt servicing requirement over social protection measures:

> Based on empirical evidence, the famous UNICEF study Adjustment with a Human Face (Cornia et al., 1987) demanded a thorough rethinking of adjustment policies. Its demands were immediately qualified as a cri du coeur rather than a serious guideline for economic policy (Raifer, 2010, p. 120).

If history is to be an example however, the World Bank and IMF suffer neither criticism nor instruction gladly. The Structural Adjustment Participatory Review Network (SAPRIN) describes itself as:

> ...a global network established to expand and legitimise the role of civil society in economic policy making and to strengthen the organised challenge to structural adjustment programs by citizens around the globe (SAPRIN, 2013, para 1).
SAPRIN released a report in 2004 entitled *Structural Adjustment: The SAPRI Report: The Policy Roots of Economic Crisis, Poverty and Inequality*, representing the culmination of five years of collaboration between developing country governments, citizen groups and the World Bank. Funded by the World Bank, European governments, UN agencies and NGOs, the report embodies probably the most comprehensive investigation into the impact of adjustment programs ever undertaken, and it presents a devastating critique. Ultimately the Bank distanced itself from the findings, partially due to the end of a fleeting period of openness to new economic ideas during the Wolfensohn presidency.

The report concluded that financial sector reform was short-sighted, preoccupied with the liberalisation of capital accounts and interest rates while eroding long standing regulations. It found that these measures served the interests of a highly exclusive group of profit maximisers who had become intensely monopolistic. The end result was that:

...liberalisation has neither improved economic efficiency nor engendered macroeconomic stability, but instead has reinforced the structural weaknesses in national economies ...(It) has also increased social exclusion and produced political destabilization (SAPRIN, 2004, p. 7).

The report further concluded that as a result of adjustment, the concentration of financial assets in a select group had intensified. Financiers failed to infuse producers looking to grow their businesses with capital, but instead loaned to already well-established operators, exaggerating existing inequalities by failing to facilitate opportunities to smaller enterprises and rural economies in general.

In concentrating lending activities in geographical regions where upper-income groups reside, banking systems have also discriminated against producers in low-income regions, thus further reinforcing patterns of unequal development (SAPRIN, 2004, p. 7).

Groups excluded from credit included indigenous and rural producers, women, and small and medium sized firms. Climbing interest rates as a result of liberalisation and the impossibility of satisfying traditional loan requirements eliminated them from formal financial structures. Liberalisation policies, preoccupied with short-term export-oriented investment, forced small and medium sized business into bankruptcy or informal and dubious credit. In summary, the report concluded that reforms have:

...facilitated the search for quick profits and have helped channel resources away from productive sectors. At the same time, the liberalisation of interest rates and capital accounts has contributed to economic crisis and increased vulnerability to external shocks. Consequently, the structural weaknesses of national economic systems have been reinforced (SAPRIN, 2004, pp. 7-8).
Specific to trade policy reform, the report investigated the impact of trade liberalisation initiatives in seven countries: Bangladesh, Ecuador, Ghana, Hungary, Mexico, the Philippines and Zimbabwe. The report found that in spite of the diverse set of economic conditions and income levels in these countries, “they have had one thing in common during this period: the value of their imports of merchandise has been higher than that of their exports” (SAPRIN, 2004, p. 5). This resulted in an increase in current account deficits and an increase in debt. Consistently declining terms of trade means an increase in exports needed to maintain a consistent level of imports. Where there has been export growth, it can frequently be attributed to a narrow category of resources purchased with low-skill labour, and in the overwhelming number of cases, the beneficiaries of export growth have been multinational corporations.

In SAPRIN’s analysis, trade liberalisation, rolled out in absence of any consideration of context, has sabotaged the possibility of achieving economic conditions required for domestic companies to grow. This has contributed to an increase in unemployment and a situation where benefits from export led growth have been accrued (almost entirely) by transnational companies. Furthermore, the increased presence of transnationals in developing economies has ramped up competition between manufacturers in developing countries with often distressing results. As Madeley observes:

> ...we are seeing what Korten described as ‘a race to the bottom’. With each passing day it becomes more difficult to obtain contracts from one of the mega-retailers without hiring child labour, cheating workers on overtime pay, imposing merciless quotas, and operating unsafe practices (Madeley, 2009, p. 103).

It is not only financial sector liberalisation and trade policy reform that have impacted inequality, but other measures such as devaluation, increases in interest rates and tax and labour market reforms. The results of devaluation are not necessarily cut and dry as the overall impact depends on the income and expenditure of the poor, and the movements in relative prices, but “if the consumption basket of the poor consists of a large percentage of imports, devaluation will impact them negatively” (Melville, 2002, p. 5). Pricing policies implemented under adjustment tend to reallocate incomes within the labour force from the unskilled to the skilled, effectively apportioning disposable income away from the poor, a situation that can be further aggravated by the removal of many subsides, but food subsidies in particular.

> Further, to the extent that many are in the informal sector (either as street vendors or service providers, such as household helpers) they may also suffer indirectly as middle class public servants are shed as the public sector contracts under adjustment (Melville, 2002, p. 6).

Likewise, tax and labour market reforms typically result in the elimination of minimum wages,
legislation that make redundancies easier, and the enfeeblement of trade unions.

The simplification of the tax system often impacts benefits to the poor such as the elimination of basic food subsidies; changes in the level and composition of government expenditure tend to preclude spending on infrastructure projects that provide short term relief to the poor, and the move to indirect taxation is regressive (Melville, 2002, p. 6).

The SAPRIN report concludes by imploring the IMF and the World Bank to implement reforms of this nature only in a way that supports domestic manufacturers, by taking into account the conditions of domestic producers and pacing and sequencing reform in order to create a level playing field to help stimulate local production. The importance of specific industries and sectors of the economy to each country cannot be overstated, in terms of their contribution to employment levels and domestic development, particularly for the low income strata’s of the community. For this reason “trade policy should support a country’s strategic sectors and should be nuanced rather than indiscriminate” (SAPRIN, 2004, p. 6). However the World Bank frequently points to the significant fluctuation between countries, even though it is now widely accepted that forced incorporation of developing economies into greater participation in an international market place has not led to the expected levelling of playing fields but instead “globalisation has led to slower growth and rising inter and intra-country inequality and poverty” (Melville, 2002, p. 6).

As New Institutional Economics (NIE) began to grow more influential, the Post-Washington Consensus emerged in the late 1990s. NIE expanded economists views around the causes of market failure. Traditional problems of externalities, monopolies and increasing return to scale began to be considered in light of other issues such as information failures and transaction costs. The inclusion of these components distorted the neoliberal view of perfectly functioning markets to one of imperfect markets. Essentially the Post-Washington Consensus was an attempt to adapt the Washington Consensus to these new ideas, and it did produce some policy reforms at the IMF and the World Bank, although Stiglitz notes that:

While the IMF talked about the need for greater safety nets, it did not focus squarely on the factors that contributed to economic volatility—including capital market liberalization; it continued to advocate capital market liberalization, long after the adverse effects on stability became clear and as evidence mounted that it did not contribute to economic growth. It continued to focus on the inadequacies in the developing countries, not in the Washington consensus policies; blame was squarely placed on the developing countries for their problems, especially related to lack of transparency and poor governance (Stiglitz, 2004, pp. 6-7).

In reality, the shift of the World Bank towards NIE was more to do with the Bank’s need to separate
itself from the IMF after the intertwining of lending instruments and policy prescriptions in the 1980s, than it was a response to theoretical critique. As Engel points out:

It also reflected the need to justify the extension of conditionality beyond economic policy into issues of governance, which, one should add, provided the Bank with a new raison d’être for lending and thus for its very existence. The PWC was marketed as a response to calls for local ‘ownership’ of development programmes, while at the same time facilitating compliance with the broadened agenda (2010, p. 66).

The unwillingness of the IMF and the World Bank to radically reconsider the course in spite of such a long history of failure is frustrating as many sources remain resolutely disinclined to link austerity measures or adjustment policies to rises in poverty and inequality and slowed economic growth. Where growth has been noted it is significantly diminished from growth rates recorded pre-adjustment. In spite of this, “economists of the International Monetary Fund and the World Bank argue that slippage on the part of countries is responsible for poor performance observed” (Melville, 2002, p. 4). It has taken until June of 2013, for the IMF to admit that austerity in the Greek context has been a failure. The CEO of the IMF Christine Lagarde, in a startlingly frank admission, stated that “market confidence was not restored, the banking system lost 30% of its deposits and the economy encountered a much deeper than expected recession with exceptionally high unemployment” (Elliot et-al, 2013, para 4).

In short, structural adjustment reforms:

...have been denounced for seeking excessive reduction in aggregate demand, resulting in an unwarranted contraction of output and employment, as well as declining living standards for the poor, and for altering the distribution of incomes in favour of the non-poor” (Melville, 2002, pp. 3-4).

Indeed in some regions of the world the 1980s has come to be referred to as the lost decade, most notably “in Latin America and some countries in the Caribbean [...] precisely because of the absence of economic growth and significant reversals on the social front” (Melville, 2002, p. 4). Szekelt (2001, pp. 5-8) argued that structural adjustment in the 1990s resulted in a dismantling of the previous social development strategy, whilst the freeze on government spending across the board coupled with the abolition of subsidies, cost-based pricing for publicly provided goods and services, and cuts to social spending, all adversely affected the poor disproportionately.

Detailed statistical analysis has revealed that International Monetary Fund programs actively serve to reduce growth and exacerbate inequalities in income distribution, with several studies showing that the single most consistent effect the International Monetary Fund seems to have is its ability to redistribute income away from workers (Hertz, 2004, p. 103).
At very best, conditions for the poor living with the impacts of adjustment have not worsened, but this has not been the typical outcome.

Evidence has been gathered which shows that during growth episodes the poor may not benefit, and in fact the poor are more adversely affected in a downturn, while an expansion may have a more limited time effect (asymmetric effect) on the poor (Melville, 2002, p. 4).

Where the position of the poor has remained stagnant during growth periods, the impact of worsening inequality has everywhere been felt.

Structural Adjustment Programs in Latin America led to a redistribution of income away from labour to capital, while wage differentials between skilled and unskilled workers rose with liberalisation. Growing inequality of incomes was also found for Jamaica, Trinidad and Tobago under structural adjustment (Melville, 2002, p. 4).

It seems without direct intervention it is very difficult to improve the position of the poor, and in any case, growth is not the panacea it is touted to be, or perhaps not be any kind of remedy at all. Evidence to dispel the myth that economic growth alone is an effective anti-poverty strategy is mounting as it becomes plain that the poor have very limited capacity to benefit from growth opportunities “or the type of growth strategy pursued may further disadvantage persons/groups/communities that have been traditionally bypassed by growth episodes” (Melville, 2002, p. 8).

IMF and World Bank economists have defended against the accusation that adjustment has deepened inequality, with the somewhat implausible argument that inequality is actually good for growth, driving innovation and productivity. Like many of the suppositions of the neoliberal program, this account has not been borne out by reality, as evidence in empirically tested growth theories.

In fact, according to the new growth theory, excessive inequality can retard growth. Additionally, empirical evidence reveals that countries with relatively egalitarian initial conditions tend to grow faster than those with high initial inequality. The International Monetary Fund itself has put forward evidence that inequality may hinder growth and that equitable adjustment may be more sustainable (Melville, 2002, p. 5).

It has therefore become increasingly difficult to refute the argument that adjustment policies, when imposed “without explicit focus on social outcomes are likely to aggravate poverty and inequality” (Melville 2002, p. 8). Evidence points to already impoverished peoples being further crushed under the weight of adjustment “particularly persons that are hovering just above the poverty line and those subsisting below the poverty line” (Melville, 2002, p. 8).

As the many and varied causes of poverty rise slowly to the surface, it is disingenuous to continue to
labour the argument that growth alone is a magic pill. Nor is aid. In some capacity these realities have been taken on board by the IMF and World Bank who have expanded their objectives to include a targeted focus on poverty reduction, denoting this as an aspiration of adjustment, however they still offer their unqualified commitment to the supposed effectiveness of private sector led growth and a globalised free market, considering this the basis for development in general. Alongside this view they now incorporate a focus on social outcomes.

Emerging in the literature also is a tentative acknowledgement that poverty itself is a direct obstacle to development (Banjeree & Duflo, 2011). This understanding finally inverts the common law, and suggests that growth is an agreeable by-product of measures to address poverty and not the other way around. From no other vantage point than opportunity cost, the opportunity cost of not addressing poverty is less growth. The opportunity cost of failing to meet obligations to economic and social rights is less growth. This is important if only because it makes it easier to sell poverty reduction measures to economists and policy makers who promote the neoliberal orthodoxy, whom almost invariably see the prize as growth.

**HIPC I, HIPC II and So On ...**

The IMF and the World Bank HIPC program commenced in 1996. In order to be eligible for debt relief, countries were obliged to meet an assortment of performance targets and demonstrate compliance with economic management guidelines as so prescribed by the IMF and World Bank who:

...initially identified 41 countries as possible candidates for debt-relief under the HIPC initiative. In total they owed $221 billion ($US) in 1998, about $61 billion of which, (roughly 26% of the total debt stock) was owed to multilateral financial institutions (Cheru, 2006, p. 44).

Right from the outset the HIPC program came under serious criticism. Six years in duration, the program was accused of being unnecessarily cumbersome and drawn-out. Jubilee Debt Campaign UK reported that:

...it takes on average 3.8 years for irrevocable debt cancellation. Four years is a long time for people who are dying because their governments cannot provide basic healthcare, and who cannot afford to send their children to primary school because the government has to charge fees for this basic right (Williams, 2008, p. 23).

Before becoming eligible for any cancellation a country must first complete a three year economic
reform program under the instruction of the IMF and World Bank. Following that they must commit to a further three years of on-going reforms in order to reach completion point. Staying on track during this period has not been straightforward for many countries. Prior to the debt cancellation it received in 2010 (in consideration of the humanitarian crisis caused by four devastating hurricanes in 2008), Haiti represented a case in point. During its protracted march to completion point, “the country paid hundreds of millions of dollars more in debt service instead of being able to re-direct this finance towards desperately needed poverty reduction” (Williams, 2008, p. 22). Raffer contends that this prolonged process serves primarily to preserve the capacity of IFIs to intervene into domestic economic affairs.

During stage one relief was granted, but the BWIs continued to lend, increasing debts and making more relief necessary at completion point. Why countries already classified as ‘unsustainable’ had to wait six more years for reductions remains a mystery (Raffer, 2010, p. 28).

The convoluted nature of the HIPC process is not the only criticism it has been subject to. In particular, demands that countries privatise the provision of public services and introduce user-pays policies have placed basic services outside the reach of the ordinary citizens. This reflects the general trend of subjugating the needs of the citizenry to the demands of programme requirements. For example, the promotion in the agricultural sectors of cash crops over the production of foods that met the needs of the local community:

...served to re-in force the dangerous dependency on raw material exports these countries already had, but also resulted in many countries losing the self-sufficiency they once had in feeding their own populations (Hertz, 2004, p. 101).

The entire program fielded accusations of “securing the interests of creditors over debtors and failing to assist debtors sufficiently, or even at all, upon their arrival at completion point” (Carrasco, McClellan & Ro, 2007).

In an assessment of the program published in September 2000, the UN Conference on Trade and Development voiced its increasing doubt that HIPC beneficiaries would attain sustainable debt levels after completion point, or even if they did, that they could maintain them over the long term. In response to this the G7 launched the Enhanced HIPC Initiative pledging to provide ‘faster and deeper’ debt relief (Christian Aid, 2007, p. 12). Even before the initiative had come into effect sceptics noted that it came bound by many of the same problems that plagued the original HIPC program, including “under-funding, restrictions over eligibility, inadequate debt relief, excessive conditionality and cumbersome procedures” (UN General Assembly, 2000, p. 2). By May 2000 only five countries had received some debt relief. Coming under pressure from prominent civil society groups, the IMF and
the World Bank committed to a more generous $33.6 billion in debt relief for 22 countries that it anticipated would become eligible by December 2000.

It was expected that debt servicing in some of these countries would be reduced by one third during the next few years following HIPC treatment, combined with traditional debt rescheduling and bilateral debt relief. However, even by the end of the 2000, only Uganda had reached the final stage of HIPC, when full debt relief is given (Bisat & Schiffrin, 2013, p. 121).

The defining feature of the Enhanced HIPC Initiative was a strengthened emphasis on the connection between debt relief and poverty reduction, demonstrated with the introduction of the Poverty Reduction Growth Facility (PRGFs). This facility stipulated that countries liberated from debt repayment channel those funds into specific anti-poverty initiatives. Each country's PRGF program was to be modelled around a Poverty Reduction Strategy Paper which describes the macroeconomic, structural, and social programs that a country will bind itself to in order to facilitate economic growth and reduce poverty. In an effort to generate local support, the program encouraged the participation of a cross section of the community in the development of the paper, including (but not limited to) government representatives, civil-society groups and NGOs. For most poor countries, this component represented a major challenge, as it requires not only the full participation of a cross section of the community, but also the collection and analysis of data and the detailing of how money saved through the HIPC programme should be spent. Many poor countries lack the sufficient human and institutional resources to properly support these kinds of undertakings.

A study by the UN Economic Commission for Africa (UNECA) concluded that progress in aligning donor procedures to support the implementation of poverty-reduction strategies in Africa has not lived up to expectations: Donor conditions have not decreased, reporting requirements have not been harmonised, and donor funding remains unpredictable (Cheru, 2006, p. 47).

Further changes introduced in the Enhanced HIPC initiative included a replacement of the six year structure by a floating completion point allowing for countries to move more expeditiously through the process, the availability of interim debt relief, the setting of some limitations on conditionalities, and the inclusion of greater participation from the local communities in program design and roll out. In 2001 the IMF introduced the practice of 'topping up', that is, providing extra debt relief to countries that faced unexpected economic complications after reaching decision point as a result of external factors such as rising interest rates or falling commodity prices. Like its predecessor HIPC however, the effectiveness of Enhanced HIPC was severely hampered by the restrictive harness of conditionality and policy reform. “Moreover, the envisioned debt relief has been neither sufficiently deep nor sufficiently broad; nor has debt relief been delivered at the pace required to address the
pressing needs of many African countries” (Cheru, 2006, p. 47).

By mid-2001 only two of the 41 HIPC countries (Bolivia and Uganda) had reached completion point, while 23 had reached decision point, and four were deemed not eligible for debt forgiveness. Post 2001 the pace of debt relief relaxed even further, with only five HIPC countries making it to decision point between 2001 and 2004. The arrival of these countries at completion point had taken longer than the anticipated three years, prompting the IMF to declare that there were slippages in some countries as a result of political tensions and fiscal policy setbacks. Cheru noted at the time that:

...of the 20 countries that are currently between the decision point and the completion point under the Initiative, at least 8-10 (60%) will have annual debt-service payments due in 2003-05 that will be higher than their annual debt-service payments in 1998-2000 (Cheru, 2006, p. 48).

In June 2005 the Multilateral Debt Relief Initiative (MDRI) was proposed by the G-8 and rolled out in 2006 by the IMF and World Bank. Under this Initiative, debt relief was to be provided for 100 per cent of eligible debt claims on countries that reached the completion point under HIPC. A stipulated objectives of MDRI was to make resources available to invest in the achievement of the MDGs. Raffer contends that this represents a subtle yet deceptive shift in policy focus, noting that:

... on the publication's cover, the MDRI's goal is defined as: 'To provide additional support to HIPCs to reach the Millennium Development Goals'. Permanent exit or external liability are not mentioned. They seem no longer intended. The serious debt problem already recognised by the Pearson Commission in the 1960s drags on. The solution offered still lags behind this commission's generous proposals made nearly forty years before MDRI was launched in 2006 (2010, p. 58).

Many critics go further than the accusation that Northern governments and the IMF and World Bank have shifted the goal posts, levelling charges of indifference, showmanship and insincerity. Cheru (2006) argues that the conveyor belt of debt relief initiatives introduced with great ceremony by G8 governments:

...have done little more than apply ill-conceived, short-term palliatives to what is arguably the intractable obstacle to Africa's recovery. The G7 debt-reduction initiatives were set and reset arbitrarily rather than on the basis of a serious assessment of the needs of each country (2007, p. 71).

The MDRI program has revealed its demonstrable shortcomings for countries who meet its difficult requirements. Many other countries however, are simply unable to reach completion point. Some are affected by conflict, while others are forced to settle large arrears to various creditors before they can
become eligible. Burundi, Myanmar, Sudan and the Democratic Republic of Congo for example, do not have the infrastructure necessary to support the basic prerequisites of the programme, or to implement policy reforms. There are a number of countries with heavy debt burdens that do not qualify for debt relief because of the way they have been categorised by the IMF and World Bank. Some countries are considered severely indebted, but as they do not borrow from the IDA but from the IBRD, that provides loans to middle-income countries, they do not qualify for the program. Others are classified upper middle-income countries and therefore are not eligible no matter how great their debt burdens. Still other low-income countries, considered only moderately indebted, also do not qualify. In Raffer’s estimation, there seems to be no clear end to the initiatives which are designed to relieve poor countries of unsustainable debt burdens, but fail to do so.

The foreseeable result of the US crisis is that sub-Saharan African countries will remain under the thumb of unreformed IFIs. Some Latin American countries will again become IFI victims. Continuity of the never-ending story of sovereign Southern debts is assured (Raffer, 2010, p. 77)

Representations of Debt Default

Historically speaking, the consequences of default have not been homogenous but are case specific and depend on a complex set of variables. As Reinhart and Rogoff point out:

...country default is often the result of complex cost-benefit calculus involving social considerations, not just economic and financial ones. Most countries default long before a nation literally runs out of resources (2010, p. 55).

Much of the literature exploring repudiation or default is focussed upon the right to repudiate, with reference to doctrines of illegitimate or odious debt. This research is more concerned with what happens to an economy post-facto. What emerges from broad analysis of contemporary examples is that default, however frowned upon, is at least more possible than mainstream commentators have been willing to concede.

The basic assumption of sovereign debt markets is that the prospect of legal enforcement of debt contracts, coupled with the threat of exclusion from the market, and the likelihood of condemnation from multilateral financial institutions, will effectively prevent them from happening. Whilst threats made by IFIs and foreign creditors towards indebted countries contemplating default are plenty and varied, there is scarce little evidence to support the proposition that when push comes to shove, creditors do anything other than reschedule. As Reinhart and Rogoff note:
... in corporate or individual bankruptcy, creditors have well defined rights that typically allow them to take over many of the debtor’s assets and put a lien on a share of its future income. In sovereign bankruptcy, creditors may be able to do the same on paper, but in practice their enforcement power is very limited (Reinhart and Rogoff, 2010, p. 52).

The most substantial jeopardy faced by borrower countries who threaten default is a loss of access to international capital markets, and this is indeed a bleak prospect. It is almost impossible to overestimate the importance of capital markets to growth opportunities for developing economies. Reinhart and Rogoff argue that “the benefits of continued capital market access could induce governments to maintain debt repayments absent any legal system whatsoever to force their cooperation” (2010, p. 55).

In exploring the possibility of debt repudiation, the absolute interconnectedness of actors and actions becomes obvious. Like an optical illusion hidden within a 3D stereogram, the network of interrelationships only becomes apparent to the naked eye in stepping back to allow for the broader perimeters of the macro picture to reveal their influence; Credit Rating Agencies (CRA), for example, have a bigger impact on human rights obligations that might originally have been imagined. Capital markets and CRAs are neither accountable nor transparent. Given this, it is unlikely that they would be sufficiently motivated to respect the efforts of governments of poor countries to better meet their obligations to international human rights agreements, especially where it represents a cost to them. It seems the only agents in the global economic system who act consistently like rational self-interested individuals are corporations and financial institutions.

**Examples of Default in Practice: Argentina, Ecuador and Iceland**

The literature suggests that instances of sovereign country default would “surely cast a pall over FDI, costing the debtor country not only the capital flows but also the knowledge transfer that trade economists find typically accompanies FDI” (Reinhart & Rogoff, 2010, p. 58). Certainly the threat of exclusion from the global capital markets has proved a highly effective mechanism of discipline in the past, particularly in South America. Brazil presents a case in point:

With forty-five million Brazilians living below the poverty line and Lula promising to wage a war on hunger, analysts were terrified that he might not stick to Washington’s ridged requirements. He might do something ‘rash’, like increase budget expenditure, or decide that the $54 billion Brazil was paying out per year in debt service was just too much. Nor did
the market like the fact that at the beginning of his campaign, Lula had pledged to suspend
debt payments if elected (a statement he spent the rest of his campaign trying to undo). The
market ‘didn’t believe that he would do the right thing under pressure,’ another trader told
me (Hertz, 2004, p.83).

Pressure from Northern governments, IFIs and CRAs ensured that in the end:

Lula basically did as he was bid - not that surprising given that various influential emerging-
market reports continued to make it very clear that if he did not maintain a tight
macroeconomic policy designed to stabilise Brazil’s debt after he was elected, he would be
penalised with interest hikes he knew he could ill afford (Hertz, 2004, p. 83).

In theory, this threat could be negated by the requirement of all parties (state and non-state actors)
to facilitate efforts by a government to meet core obligations to the ICESCR, i.e., if a government re-
appropriates funds intended for debt-servicing as part of an initiative to better meet core obligations
to the ICESCR, presumably deliberate efforts to sabotage this would constitute a violation of
international law. Such a measure might require an accompanying strengthening of the regulation of
CRAs to ensure their methods of assessment do not coerce governments into negligence of their
human rights obligations, as “although these entities are often shrouded in a mystic of infallibility,
people have little reason to accept their claims on face-value, and should instead take their policy
advice with scepticism while considering all other possible alternatives” (CESR, 2012b, para 4).

At the current juncture however, even though IFIs and CRAs act to obstruct default, some countries
default anyhow. Three contemporary examples are considered here; Argentine default, Icelandic debt
forgiveness and partial repudiation as it unfolded in Ecuador.

The Argentine crisis transpired following the implementation of IMF and World Bank supported
reforms throughout the 1990s, which included pegging the peso to the U.S dollar on a one to one
exchange rate. Termed the ‘convertibility plan’ (undermining the capacity of the Argentine
government to exercise autonomous monetary policy), this included the privatisation of the state’s
basic sectors and the removal of barriers to financial flows and trade. Cibils argues that “the 1994
privatization of its social security system alone explains Argentina’s explosive debt accumulation
between 1994 and 2001 and the resulting default” (Cibils, 2011, para 2).

In late 1998, the Argentine economy showed signs of recession, yet IMF and World Bank policy
reforms had engendered an inflexibility so rigid that the government had become impotent to
respond with the macroeconomic policy tools traditionally used to engineer recovery. As the
economy slowed and international investors became toe-y, the Argentine government turned in
desperation to the IMF who demanded strict austerity measures as a condition of financing. This
resulted in a further deepening of recession and by the second quarter of 2001 rampant capital flight
necessitated further IMF and the World Bank intervention, which only pre-empted depression. Debt stocks became impossible to service and a run on the banks ensued. In an attempt to slow the downward spiral, the Argentine government placed bank deposits under a partial freeze, but finally conceded that the country was no longer able to meet obligations attached to the IMF sponsored program, at which point the IMF withdrew its support and shelved disbursements. This became the single largest default in international finance history, at U.S $103.2 billion (Hornbeck, 2010, para 5), and it all but decimated the Argentine central bank currency. Immediately after default and subsequent devaluation, the economy predictably contracted. Contrary to speculation however, it only remained in the contractionary phase for one more quarter. By the second quarter of 2002 the economy began to recover and continued to grow until 2009 when the impact of the global financial crisis of 2007/08 stifled progress. The doomsday predictions of what would happen to the Argentine economy in the event of default never materialized.

The role of the IMF in bringing the Argentine government to the brink of default should not be marginalised in this debate. As noted by Hornbeck, the Argentine crisis was:

...compounded by questionable lending and policy advice from the International Monetary Fund, a global recession, and international credit markets determined to chase high-yielding debt with inadequate regard to risk. Together these factors propelled Argentina towards a position of unsustainable debt that ended in an unprecedented default and restructuring scheme (2010, para 6).

As it turned out, investment banks and CRAs had overplayed the robustness of the Argentine economy, a misplaced confidence re-enforced by the additional loan facility made available by the IMF.

The recession and subsequent depression that beset the Argentine economy happened at a time when its economic policies were subject to tight IMF supervision, a circumstance to which Argentinean policy makers had been compelled to adjust since 1991. The obvious inter-relationship between IMF supervision and recession, and ultimately depression, gives rise to questions regarding the reasonableness of punishing a country simply for following the advice with which it was instructed to comply by the powers to which it is beholden.

Some critics have argued that the International Monetary Fund’s main fault lay in providing too much financing without requiring sufficient policy adjustment, while others have alleged that the policies recommended by the International Monetary Fund actually contributed to the crisis. In either case, the eventual collapse of the convertibility regime and the associated adverse economic and social consequences for the country have, rightly or wrongly, had a reputational cost for the International Monetary Fund (Independent Evaluation Office (IEO)
This is indeed the least of the costs of IMF advice in the Argentine context.

Surprisingly, or perhaps unsurprisingly, the Argentine economy has recovered well from the initial fallout of default. GDP rose to 8.8 per cent in 2003 and averaged 8.5 per cent annually until 2008. “The country experienced this remarkable economic growth despite the default and difficulties borrowing from international financial markets over the past nine years, and relatively little Foreign Direct Investment” (Weisbrot, Ray, Montecino & Kozameh, 2011, p. 1), a development which rather blows assumptions regarding the extent to which governments must pander to bond markets and international investors out of the water. This unforeseen growth also facilitated welcome kickbacks for the progression of economic and social rights:

...poverty has fallen by over two-thirds from its peak, from almost half of the population in 2001 to approximately one-seventh of the population in early 2010. Extreme poverty has fallen by about the same rate, from over one-fourth of the population in 2001 to approximately one in fifteen. Income inequality has also fallen dramatically. In 2001, those in the 95th per centile had 32 times the income of those in the 5th per centile. By early 2010, this fell by nearly half, to 17 (Weisbrot, et-al., 2011, p. 1).

Equality has improved in Argentina as a result of a number of factors, not least of which is evidence of improving incomes among the poor and not just diminishing incomes among the rich. As Weisbrot et-al. (2011, p.30-31) show, unemployment fell by over half from its peak, to 8.0 per cent, while by early 2010, employment rose to 55.7 per cent, the highest on record. Social spending nearly tripled in real terms, and rose from 10.3 to 14.2 per cent of GDP. In 2009, the government expanded the reach of its social programs:

...with the goal of reducing poverty and improving the welfare of children. This involved a conditional cash transfer program for low-income households, similar to Brazil’s Bolsa Familia and Mexico’s Progresa-Oportunidades programs, which have won widespread international praise, but is significantly larger relative to GDP. There were also significant reductions in infant and child mortality over the last nine years, somewhat more than in similarly situated countries (Weisbrot et-al., 2011, p.34).

Increasingly, it becomes difficult to explain why default is not both Plan A and Plan B.

The second example to consider is Ecuador. In 2006 Rafael Correa campaigned for the Ecuadorian presidency on a platform that promised to redirect funds from the servicing of unsustainable external debt repayments into local social and infrastructural programs. An economist by trade, Correa took office in 2007. Responding to demands from the international Jubilee Network and other civil society
groups within Ecuador, he established a Commission of Integral Audit of Public Credit charged with the task of auditing and examining the country’s foreign debts, investigating their origins, nature, and the impact of continuing to service it. The Commission “documented hundreds of allegations of irregularity, illegality, and illegitimacy in the contraction of Ecuador’s debt” (Anderson & Watkins, 2008 para 11).

Since the late 1980s, Ecuador’s debt repayments had not only exceeded the value of the principal borrowed but also covered exorbitant interest and penalties. In the period from 1982 to 2006, Ecuador serviced foreign debt creditors $119 billion for capital and interest, while receiving over the same period $106 billion in new loans, which amounted to a total negative transfer of $13 billion (Anderson & Watkins, 2008, para 4). In spite of rescheduling, conversions, and further borrowing, the debt had risen to more than $10 billion by 2009 and the cost to the people of Ecuador and to the development of the country became unsustainable. For example, “in 2007, the Ecuadorian government paid $1.75 billion in debt service, more than it spent on health care, social services, the environment and housing and urban development combined” (Anderson & Watkins, 2008, para 5).

Certainly the risks faced by Ecuador in the event of default were significant, in particular they exposed themselves to certain exclusion from international financial markets, but continuing to service unsustainable (and illegal) debt risked widespread social unrest. Citing the findings of the report from the Commission of Integral Audit of Public Credit, the government ceased to make interest payments on some of the debt bonds, but instead of repudiating the debt outright, oversaw a debt buyback at a large discount. This default has had a dramatic impact on social inequality and levels of poverty since. In fact at the current juncture, Ecuador is not only performing better than anticipated economically, but better all around.

At the end of 2012, unemployment fell to a 25 year record low of 4.1% and since 2006, poverty has fallen by an astonishing 27% (Weisbrot, 2013, para 2). This is due mostly to a reinvestment in public spending, particularly on healthcare provision and education, which:

...has more than doubled, in real (inflation-adjusted) terms. Increased healthcare spending has expanded access to medical care, and other social spending has also increased substantially, including a vast expansion of government-subsidised housing credit (Wiesbrot, 2013, para 2).

Ecuador has seemingly achieved for itself a sustainable debt situation, maintaining interest rate payments on public debt that are less than one percent of GDP, and a public debt-to-GDP ratio of 25 percent (Weisbrot, 2013, para 3). Furthermore, CRAs seem not to be holding a grudge, and have improved their credit analysis of Ecuador recently after it plummeted in the aftermath of default. “In June of last year, Standard & Poor’s upgraded Ecuador’s long-term sovereign credit rating to B from
B-minus, citing indications of better growth prospects and government revenues on sustained higher levels of investment” (Weisbrot, 2013, para 4). Equator plans to return to the international debt markets and issue sovereign debt in the first quarter of 2014. In spite of having defaulted on $3.2 billion dollars of sovereign bonds the economic future for Ecuador looks decidedly rosy.

The final example that provides a useful and more contemporary blueprint is Iceland. Leading up to the financial crisis Iceland was lauded as the rising star of the global economy. Leaders in debt issuance per capita, and a highly leveraged financial sector, meant that they performed fabulously well in the lead up to crisis, only to crash with a breath-taking thud as it began to take hold. Panicked creditors made a run for Icelandic banks and the small economy dived headlong into bankruptcy. Facing an impossible combination of un-repayable debt, a rapidly deepening recession and the expectation from IFIs, and European and Northern governments in general, that Iceland immediately assume more debt and implement strict austerity policies, the Icelandic government went to public referendum in early 2009. The vote registered a landslide 90% percent of Iceland’s citizens in favour, and a whopping U.S $85 billion debt default left bankers, foreign investors and governments abruptly out in the cold. Responsibility for reckless lending arrangements was placed squarely back in the hands of the lender. Of this referendum, President Ólafur Ragnar Grímsson stated:

...the economy is just not an echo of banks. It's a community of people. If they don't feel strong, it doesn't matter whatever tax measure you adopt. This was shown via the referendum on the Icesave issue. Every Icelander was given a vote and got a new sense of self-worth; it made society stronger, this democratic thing helped give people empowerment (Lynman, 2013, para 3).

In a trajectory remarkably similar to Argentina’s economic performance post-default, the Icelandic economy fell immediately into a deeper recession which saw the Krona tumble to more than 70 per cent of the Euro. Recently however, the economy has shown strong signs of recovery. Indeed, Iceland’s economic performance has exceeded even the most optimistic expectations. In an interview with Al Jazeera at the World Economic Forum in Davos, Prime Minister Grímsson reflected on Iceland’s recent history, stating “we didn’t follow the prevailing orthodoxy of the Western world in the last thirty years. We established currency controls, let the banks fail, provided for the poor, and didn’t introduce austerity measures on the scale you’re seeing in Europe” (Armbrust, 2013).

When questioned as to how effective this type of response to debt would be if translated into the European crisis Grímsson added:

I think it would work for the rest of Europe. Why do you consider banks to be the holy churches of the modern economy? Why are private banks not like airlines and telecommunications companies, allowed to go bankrupt if they’ve acted in an irresponsible
way? The theory that you have to bail out banks is about bankers enjoying for their own profit or success, and letting the ordinary people bear the failure through taxes and austerity. People in enlightened democracies aren’t going to accept that in the long run (Armbrust, 2013).

Grimsson also noted that the advantages of not propping up the banking and financial sector had manifest in unexpected and agreeable ways. Icelandic banks had become magnets for the most prolific talent in the country, including engineers, mathematicians and IT specialists. The failure of banks released a highly skilled workforce into other sectors and innovation has flourished in recent years as a result. “The lesson is, the financial sector, even if successful, is in fact bad news if you want to be competitive in innovation and technology” (Armbrust, 2013).

The Icelandic approach mirrors closely the principal sentiments of this research, summed up by Grimsson who noted “Iceland’s approach to dealing with the meltdown has put the needs of its population ahead of the markets at every turn” (Valdimarsson, 2012, para 3). However, whilst default seems to have had positive outcomes for Argentina, Ecuador and Iceland, things of this nature are rarely straightforward and it is problematic to draw sweeping or absolute conclusions, especially where economies operate, as they do, in a global economic order vulnerable to systemic crisis. Reinhart and Rogoff conclude that:

...economists can find arguments to explain why countries are able to borrow abroad despite the limited rights of creditors. But the arrangements are surprisingly complex, suggesting that sustainable debt levels may be fragile as well. Concerns over future access to capital markets, maintaining trade, and possibly broader international relations all support debt flows, with the relative emphasis and weights depending on factors specific to each situation (2010, p. 58).

Levy-Yeyati and Panizza found that “in particular, we show that defaults have no significant negative impact on successive output growth and, if anything, mark the final stage of the crisis and the beginning of economic recovery” (Levy-Yeyati & Panizza, 2006, p. 4), which is a surprisingly atypical conclusion. In particular, in considering the specific cases of Ecuador (referring to default in 1999) and Argentina, Levy-Yeyati and Panizza argue that if they use annual data, Ecuador contracted by six percent in 1999 (the default year), while Argentina’s output declined by 12 percent in 2002 (the official date of the Argentinean default was December 2001). A closer look at the data however reveals a different picture. Once the quarterly growth of GDP is taken into account, the default event appears to coincide not with the period of more pronounced contraction but rather with the beginning of the recovery (Levy-Yeyati & Panizza, 2006, p. 5).

The reason for the discrepancy in data is that annual data describes a different reality to quarterly
data, because given that GDP is an average “high-frequency shocks tend to spill over to the subsequent period when output is reported at a lower frequency” (Levy-Yeyati & Panizza, 2006, p. 5). Therefore GDP contraction as reported in Argentina in late 2001 is noted as output decline in 2002. In reality, the economy began to show signs of growth at that time.

As the figure shows, the same could be said for the large defaults of the 1990s, such as those by Indonesia, Russia, Ukraine and Uruguay (indeed, recovery was already underway in the latter at the time of default) (Levy-Yeyati & Panizza, 2006, p. 5).

To some extent then, there is no user-guide for how re-appropriation of this nature can be expected to play out. There is only theory and example, and neither is a sure thing. What history can confirm is that periods of prolonged debt suffering have not ever extended as long or reached as deep as that in which the debt distressed countries now find themselves in. In the vast majority of cases, insolvent countries have either repudiated debt or arrived at a permanent arrangement with creditors. The current situation represents a historical anomaly. As Jochnick and Preston (2006) point out:

Sovereign debt has been a source of conflict between countries dating back to antiquity and renegotiations and default are legion. Debt crisis have followed a regular pattern since the 1800s, with over indebtedness leading to widespread defaults in the 1820s, 1870s, 1890s, and 1930s (p. 135).

The unusual behaviour of borrowers in the current climate can be accounted for by the unwillingness of creditors to accept default, but instead to force rescheduling in a relentless cycle that culminates in “a permanent state of economic crisis for debtor countries, a steady flow of resources from South to North, and an even stronger political-economic influence of creditor governments over the policies of developing economies” (Jochnick & Preston, 2006, p. 135). The fact that these countries have not repudiated their debt in this instance also points to deeply ingrained problems of corruption and conflict of interest within many Southern governments, and the reality that:

...many of the key decision makers as well as their countries' most affluent citizens had personally benefited from a pattern of growth that had been highly dependent upon access to international markets, and was unequal in its distribution, and they wanted to be able to do so again in the future (Hertz, 2004, p. 70).

Blustein argues that in the final audit, the problem is not default per se, but sudden and catastrophic default in particular. Commenting on the case of Argentina, Blustein concludes that:

...what the international community needs to recognize about these cases is that, if the country really can't pay it back it's much better to do it an orderly way [with] creditors. In the long run it will be better for the country than if they had tried to struggle on and pay debts

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that were too great a burden for the economy to bear (Blustein, 2005, para 9).

This research contends that a human rights approach may be a viable option for managing unsustainable debt default in an orderly way.

Recent events have shown that if nothing else, those charged with the task of designing economic policy in times of high crisis are not necessarily good predictors of economic outcomes. This should act as an incentive to carefully consider the possible consequences, both economic and social, of default or repudiation. What are they firstly, and are they as bad as grim as many critics suggest they are? Whilst it might be perfectly legitimate to argue that the ICESCR and the human rights normative framework provides a viable structure for the re-appropriation of funds intended for debt servicing, it is a nonsense to propose this without an accompanying investigation of the possible economic consequences of such a measure. If this action were predicted (with any degree of certainty) to drive at-risk economies even further into depression, such a move would be counter-productive no matter how technically legitimate. And thus it becomes evident that the space between economics and human rights is not self-evident and must be negotiated. With this in mind, it is worth considering that the most significant problem with evaluating the potential consequences of default is the quite mystifying spectrum of speculation surrounding the issue, a body of opinion which only continues to splinter and contradict as Greece, Spain, Ireland and Portugal edge ever closer to the bifurcation between re-scheduling and outright default.

Credit Rating Agencies and Private Actors in Finance

Whilst this research is focussed on the role of the IMF and World Bank in particular, it would be remiss to ignore the importance of capital markets in light of the distorting impact they have on policy formulation within developing economies. The reality is that it is a convergence of a number of influences and institutions acting simultaneously that erode the capacity of governments to govern autonomously. As a result of the deregulation of the financial sector throughout the 1980s and 1990s, the relationship between nation states and capital markets has undergone seismic change, which has benefited the latter at the expense of the sovereignty of the former.

The importance and magnitude of international financial capital to global economic stability cannot be overstated. Sullivan notes that “the current volume being traded in the world’s financial markets on any given day is in excess of 3.2 trillion US dollars, which is approximately 60 times the volume of international trade” (2010, para 1). It is within these parameters that CRAs operate, assessing the extent to which a state’s economy is considered to be effectively managed and thereby communicating the potential risk (of profit or loss) to the international financial marketplace. The
sobering reality is that often such decisions are made by no more than a handful of individuals in offices in New York and London, thousands of miles away, and wholly divorced from local political processes. Sullivan notes that:

...any government intervention in the state’s own economy perceived to be contrary to the interests of profit for FDI are either discouraged; sanctioned with a threat of FDI withdrawal or a reduced national credit rating (2010, para 2).

National governments have also lost considerable control over the value of their currencies, as increasingly this is the remit of the market’s international investors and speculators. States no more define the institutional conditions in which financial markets work and this has a powerfully destabilizing effect. Hertz notes that:

...credit agencies illustrate in shocking form one of the most serious imbalances in today’s world. Not the geopolitical one in which countries with monies to lend wield power over those that need to borrow, or the imbalance within developing countries that can allow developing world leaders to take out loans without being held to account for their use. But an imbalance that lies at the core of developed nations themselves; an imbalance of power between corporate interests and the public interest, and among economics, politics and society (2004, p. 48).

Defending deregulated financial markets, advocates of the neoliberal paradigm contend that self-regulating markets operate more efficiently when free from government intervention. The problem with this is that markets predominantly consist of Transnational Corporations (TNC), who are motivated exclusively by profit and not accountable to the citizenry of any particular state. States that have to comply with the demands of international FDI conditions must relinquish significant economic sovereignty in favour of private sector commercial interests. Ironically, host governments often have to coax transnational investors into the local arena with subsidies and/or guarantees of security and protection from market forces in order to ensure stability and confidence, the expense of these concessions usually born by the citizenry. Governments are focussed on attracting FDI by making the conditions ideal for the investor, and the investor is focused on profit. The total effect is that financial markets undermine democracy. The growing reach of TNCs has ushered in an era where “participation in the market replaces participation in politics. The voter in elections is being replaced by the consumer in the market” (Sullivan, 2010, para 4). This type of participation is conditional on the individual’s capacity to consume, a condition which excludes the poor from any meaningful participation at all.

Keynes anticipated this development in the early stages of the Bretton-Woods Conference, predicting that the unregulated free movement of capital would diminish the possibility of regulated capitalism.
He considered an absolute laissez-faire economy as one of the most important precursors to the onset of the Great Depression. Keynes argued that capital controls were necessary to guard against capital flight, as it would be organised by the wealthy elite, and ultimately sabotage important social reform.

Nor have CRAs proved to be accurate predictors of the level of risk a national economy represents, the financial crisis of 2007/08 proving a case in point. Prior to that, not only did CRAs fail to predict both the 1994 Mexican crisis, caused by the sudden devaluation of the Peso, or the 1997 Asian crisis which began with the collapse of the Thai baht. The most problematic feature of CRAs however, is not their failure to predict crisis, but their reaction to them. It was under the oversight of CRAs that these countries spiralled into a ratings free fall, dropping by nearly five notches almost instantaneously. Sudden and unexpected downgrades of a country’s credit rating has grave consequences, and downgrading the cost of debt sends the cost of new borrowing skyrocketing. Hertz notes that in this situation:

Pension and mutual funds that maintain a minimum level of debt rating below which they will not buy, immediately sell. Once investors smell blood in the water and see money pouring out of a country, they will all try to sell off their bonds. Domestic corporations from the country in question see their debt downgraded, since typically no corporate debt is rated higher than the sovereign debt of the country it hails from, meaning that they, too, now find it very hard to raise money, no matter how well run they may be, or how compelling their work (2004, p. 51).

The fallout of a ratings downgrade is compounded by the insistence of the IMF and World Bank that developing countries not be permitted the safety of capital controls, leaving them in a tremendously vulnerable position when crisis strikes, as they have no way of stopping the outflow of capital flight or the inflow of speculative capital flows which amplify market instability. Countries that have managed to fly just under the radar of crisis include Chile, as they implemented capital controls in 1991 which helped the economy weather the so-called ‘Tequila effect’, (the impact of the 1994 Mexican economic crisis on the South American economy). The inability to halt capital flight can mean that the price of debt can nose-dive, whilst the cost of borrowing rises.

Add to this the reality that the methodologies used by CRAs to determine the level of risk in an economy are incredulous. Countries are rated by an analysis of macroeconomic variables which are subjective and ideologically biased, such as the degree to which a country is adhering to policy guidelines as so espoused by the IMF and World Bank, and most ambiguously, “the trustworthiness of the debtor” (Hertz, 2004, p. 52). In this way CRAs fuel the myth that austerity begets growth by downgrading the bonds of governments which have borrowed funds in the bond markets, in an attempt to stimulate their economy into recovery. Downgrades of this nature have a profound impact.
on the political shape of a country, as it acts to galvanise the calls of lobbyists and politicians for austerity, or often as the case may be, even more austerity.

Since these rating agencies are treated as serious, neutral and objective evaluators of whether a country’s economic policies render a sovereign default more or less likely, they are seen as impartial arbiters of a government’s financial performance, and thus beyond the realm of public (or potential) scrutiny (CESR, 2012b, p. 12).

Export Credit Agencies (ECAs), as differentiated from CRAs, are government sponsored or private institutions that perform an intermediary function between governments and exporters to issue export financing, which can be in either credits or credit insurance and guarantees, depending on the mandate the ECA has been given by its government. ECAs can also issue credit or cover on their own account, which mirrors normal banking activities. Frequently guilty of financing dubious or ill-researched projects for corrupt officials, ECAs are not constrained by external checks or balances, or required to include human rights or environmental or social components into their projects.

Attempts to get G8 countries to agree on minimal social and environmental standards for their ECAs have resulted only in a non-binding arrangement, with companies now being asked to fill out questionnaires on their environmental and social impact. Once again however, no procedures have been implemented to allow independent verification to take place (Hertz, 2004, p. 55).

Export credit debt makes up a significant amount of the debt that developing countries owe to official creditors. In some instances it accounts for almost the entire amount. Debt accumulated by export credits are particularly grave given that interest paid on it reflects commercial rates of interest not the lower rates of interest incurred when the lender is the IMF, World Bank, or regional development banks. Furthermore, the vast majority of projects backed by ECAs fall into the categories of either resource extraction or infrastructure, projects which often have serious environmental costs. Oil refineries, landmines and nuclear power plants have no public good dividend, and this is where the projects do not collapse entirely, which frequently, they do. As Hertz notes, “a former employee of HSBC told me that, of the exported credit agency deals he worked on over a twelve month period at the bank, every single one went bankrupt” (2004, p. 55). Hertz further notes that:

ECA loans not only undermine the possibility of democracy, but also by essentially legitimizing corruption, can impede economic growth. Empirical study after empirical study has shown that corruption is a barrier to significant numbers of potential investors, which means that the overall return on debts incurred through ECA loans can be extremely low or even negative (2004, p. 55).

More recently efforts have been made, particularly in the UK, to respond to criticisms levelled at ECA
lending practice. A new warranty procedure has been introduced which demands that companies make a declaration of bribery-free practice, but these reforms are both insubstantial and impossible to monitor.

Britain ECGD still has no investigatory powers, and thus no way of ensuring compliance. As transparency International has recently said; “None of the ECAs seems to seriously consider or even allow the possibility of denying access to export support to a country that has previously been shown to use bribery” (Hertz, 2004, p. 57).

Finally, it should be acknowledged that bond markets deeply intrude upon the ability of governments, particularly in developing economies to design and implement autonomous economic policy. Hertz notes that:

Between 1992 and 2002, big securities firms made nearly $1 billion in fees from underwriting Argentine bonds alone, and not only do the banks that underwrite the issues earn significant fees, they also get to know key government officials in the issuer countries along the way, making contracts that put them ahead of other banks in the race for yet more lucrative businesses (2004, p. 59).

This lucrative business potential presents a dangerous conflict of interest for banks who “often both advise a country on a bond issue and also make supposedly independent recommendations that these bonds are worth buying” (Hertz, 2004, p. 59) This problem is made worse by the reality that banker’s bonuses are derived for an emerging market group as a whole. It is seriously advantageous for bankers to push the sale of bonds which they are charged with making an unprejudiced assessment of. Hertz notes that without safeguards in place:

The bond market risks becoming the intermediary not only for the buying and selling of developing country debt, but also for the trading of developing-world despair. But if it is misery we’re interested in, then it is to the IMF and World Bank that we must turn, for no two institutions have been blamed as much for developing-world suffering, or played such a critical and on-going role in the story of debt (2004, p. 61).
CHAPTER FOUR: THE GLOBAL DEBT PROBLEM AS A PROBLEM FOR DEMOCRATIC THEORY AND PRACTICE

Democracy must be something more than two wolves and a sheep voting on what to have for dinner.

(Bovard, 1994, p. 333)

In 2011, in response to a tumultuous year of global civic unrest, Time Magazine poignantly announced their person of the year was ‘the protestor’. The accompanying article recounted the unlikely story of a 26-year-old Tunisian street vendor named Mohamed Bouazizi whose plight became emblematic of the revolutionary blaze that burned across the Middle East in 2011. After weathering years of persecution and harassment at the hands of corrupt local officials, on the 17th of December 2010 Mohamed had his weighing scale confiscated, rendering him unable to earn his days wages. On arriving at the provincial-capital building to register his complaint, he was met with indifference and contempt. In an act of heart-rending despair, Mohamed stood outside the entrance to the building, covered himself in paint thinner, and set himself alight. So tragic was Mohamed’s act of desperation that it sparked a tidal wave of protest that crashed across the Arab world, seeing some of the most oppressed citizens on the planet rise up against terrifying regimes to demand freedom and democracy.

Meanwhile in the west, protest movements that began in response to the 2007-2008 financial crisis matured and grew more organised. The Occupy Movement, synonymous with slogans like 'We are the 99 per cent' and 'Occupy the World', started on Wall Street and quickly found resonance in all corners of the advanced capitalist world. ‘Occupy’ represented a pan-issue movement behind which citizens, enraged with the way free market capitalism was perceived to be making the rich exorbitantly rich and the poor superfluous, could mobilise. In a curious symmetry, while citizens in the Middle-East were rioting for democracy, citizens in the west were occupying for accountability.

The beginnings of the global justice movement are however, rooted back further than Bouazizi or the 2007-08 financial crisis. The fight to cancel debt in poor countries has been one of the driving themes of global civic unrest since the 1990s. The general sense of unfairness that prompted this and other campaigns to splutter to life in the 1990s snowballed over twenty years into a groundswell of discontent, and in some pockets outrage, regarding the manner in which IFIs, TNCs and national governments were perceived to be managing the global economy. The 2007-08 crisis pushed many economies into positions of even greater vulnerability, and yet IFIs and governments seemed largely
to operate post-crisis in a way that placed the well-being of the ordinary citizen in grave peril.

This problem goes to the heart of reality that many writers have considered (McGrew, 2004, Scholte, 2010, George, 2010); that global economic leadership is undertaken without any democratic mandate and is neither accountable nor transparent. The susceptibility of the institutions of global economic governance to systemic failure, and the perceived favouritism they demonstrate towards their own interests, coupled with the reality that the citizenry are finally responsible for the economic costs of mismanagement, has galvanised demands for greater accountability, transparency and democracy in their procedures and processes.

These developments have paralleled an emerging discourse within the political and social sciences that proposes that there is a democracy deficit within the institutions and arrangements not just of global economic governance, but global governance broadly. As Moravcsik contends, the problem of a democracy deficit “is emerging as one of the central questions – perhaps the central question – in contemporary world politics” (2004, p. 336). Whilst the question has not been decided absolutely, what has been arrived at amongst a broad spectrum of political analysts and social commentators is some consensus that “international organizations are normatively suspect” (Moravcsik, 2004, p. 336).

In fact it is hard to think of an international organisation which has not been subject to this criticism. The ad-hoc global governance arrangements that have sprung forth in an attempt to manage globalisation have created a web of agreements about rules and regulatory requirements, new strata’s of management and expectations of behaviour. These networks are both formal and informal, pulling threads through from national governments to supra-state organisations. Scholte contends that “while nothing suggests the arrival of a unitary centralised world state, a substantial complex of transcalar and transsectoral governance of global affairs has developed and looks likely to undergo continued growth” (2010, p. 3).

Kuyper argues that the democracy deficit in the institutions of global governance is born of the failure of these institutions to operate according to democratic standards, and their inability to regulate “the gamut of processes which escape the traditional confines of the nation-state” (Kuyper, 2013, p. 2). The IMF and World Bank have certainly worn, on numerous occasions, the accusation that their procedures and process are not sufficiently democratic to be normatively acceptable, however the size and jurisdiction of most international organisations makes this criticism somewhat inevitable. In this regard, Moravcsik goes so far as to assert that the nature of international organizations mean that they are “inherently unable to support direct democratic deliberation and decision” (Moravcsik, 2004, p. 336).

Identifying the existence and nature of the problem however (that there is a democracy deficit) does not necessarily move anything along a great deal. In an attempt to accommodate the demands of a
dynamically interconnect world, ideological concepts like democracy, once practicable and robust, have been stretched like a thin skin over a bulk too large for them to contain. Democracy as an ideal is still ideal of course, but how to practice it in the context of a transnational economic order is not immediately obvious.

The problem for advocates of democracy in the institutions of global governance is this; however desirable it is that regulatory developments be shaped and informed by democratic processes, how to promote representative, accountable and participatory democracy in a planetary context is not self-evident. On this point, Scholte notes that “it is often argued that contemporary globalisation has unfolded in deep tension with democracy” (2010, p. 3). The question therefore is not, is there a deficit where there ought not to be, but rather “how can democracy be realised in a world of the kind that is currently emerging, where social relations have more pronounced global aspects?” (Scholte, 2010, p. 2).

There is significant scholarship on this question, most of which Scholte argues “emanates from: (a) introspective academic debates; (b) the field of (western) political theory; and (c) sites in North America and Western Europe” (2010, p. 4). For the most part these consider frameworks of global, transnational or cosmopolitan democracy (Scholte, 2010, p. 4). Two dominant schools of thought have emerged to describe what democratic governance of global operations might look like; statism, which contends that global democracy is most harmoniously arrived at via cooperation between democratic nation states, and modern cosmopolitanism, which envisions global democracy as an elevation of “the pillars of western liberal democracy (such as citizenship, human rights, civil society and representative government) from the national to the global level” (Scholte, 2010, p. 4). Finding both these two concepts flawed, Scholte offer one other possibility, that of “postmodern global democracies” (Scholte, 2010, p. 4) which, “goes beyond both statism and modern cosmopolitanism, with principles of transcalar geography, plural solidarities, transculturality, egalitarian distribution, and eco-ship” (Scholte, 2010, p. 4).

In proposing this concept, Scholte pre-empts and responds to a criticism worth reflecting upon here. Propositions that attempt to conceptualise frameworks of global economic governance are often criticized as utopian, and it is a sensible accusation. Scholte responds to this critique by asserting that “the purpose of the present contemplation is not to propose an immediately and fully realisable formula” (Scholte, 2010, p. 4). In other words, demonstrating a democracy deficit in the institutions of global economic governance does not immediately suggest a remedy, but nor is that criticism alone sufficient to collapse the understanding that there is a democracy deficit in the institutions of global economic governance and that there ought not to be. One is allowed to find that the system is not working even if it is not immediately obvious how to fix it.

Turning this argument towards the problem of debt and debt-exit in poor countries, this chapter
contends that the democracy deficit which pervades the organisations charged with finding resolution to the problem is sufficiently grave to suppose that they may not be trusted to act in a fair or just manner. That it is not immediately obvious how to create a functional system of transnational or global democracy does not make this deficit any less grave.

This chapter begins by outlining the nature of the democracy deficit in IFIs noting that it can be registered on two fronts. Not only is there a democracy deficit within the procedures and processes of the institutions themselves, but also in the manner in which these institutions intrude upon the autonomy and sovereignty of national parliaments through the apparatus of debt collection and administration. The second part of this chapter outlines some of the problems associated with concepts of transnational or global governance. This is in order to demonstrate that arriving at sufficiently democratic and transparent global governance arrangements is unlikely, at least in the immediate future. A human rights approach to debt exit for poor countries therefore, is not only justifiable in of and unto itself, but is also politically acceptable and immediately realisable.

**Democracy Deficits**

Nanz and Steffek (2004) define a democracy deficit as simply any “instance of separation of the process of decision-making from political accountability” (p. 314). To a certain extent however, the question of what a democratic deficit is, is worked out as a reflection of the type of democracy that is considered legitimate to begin with. The more an institution (or set of institutional arrangements) departs from whatever the democratic ideal is agreed to be, the more pronounced the democracy deficit is likely to appear. For example, Dahl considers the question of size as intrinsic to the practicability of representative government. As Dahl sees it, there is an inverse relationship between size and the possibility of effective citizen participation in governance arrangements (1998, p. 107).

Taking Dahl’s conception then, democracy in the context of global governance is extremely unlikely. Dahl contends that as governance arrangements push out from nation states into the arena of international organisations, and as a result of this, not only does the need for delegation becomes paramount, but the space for participation declines in inverse measure. If one of the components of ideal democracy is participation, as Dahl understands it to be, then the democracy deficit, in so far as the arrangements for global governance are concerned, is inevitably large.

In Dahl’s view, in order for international organisations to sufficiently address the democracy deficit they would need to create opportunities for increased political participation for the citizenry (Dahl, 1999, p. 31). This is not currently the practice of IFIs. Dahl also contends that in moving governance from nation states to international institutions some of the traditional (and key) components of
democracy, such as a shared political culture and a common identity, fall by the wayside. In national democracies these components have served to increase tolerance among sub-groups in the community when it has been incumbent upon them to sustain a loss of some kind. Without a common identity or shared political culture, it is difficult to imagine how certain inevitable losses for minority sub-groups will be tolerated (Dahl, 1998, p. 117).

In spite of Dahl’s reservations, the possibility of retreating back to the domain of nation states for governance arrangements in a globalised world does not necessarily address the question of a democracy deficit for global citizens either. Held (1999) points out that the contemporary world is one in which decisions made in one state can have serious repercussions for citizens in another. Territorial boundaries, in terms of who gets to participate in decision making, and who the decisions ultimately impact, no longer necessarily correlate with or reflect geographic or population lines. In the context of globalisation therefore, it is not only that the institutions of global governance are problematic, but that the nation state has lost some democratic legitimacy also (Held, 1999, p. 338).

For more general purposes, Weiler et-al. (1995) defines what they see as the typical understanding of a democracy deficit in the context of the EU, from whence the original discourse emerged. They take the view that the transfer of powers from member states to the EU effectively moves these powers outside the scrutiny of national parliaments. This is exacerbated by what is arguably the relative fragility of the European Parliament. Weiler et-al. note that the absence of European-wide elections is problematic, contending that election to the European Parliament is too far removed to function as electoral accountability for citizens of European member states. They contend that the biggest democracy deficit within the context of the EU is the distance between citizens and European legislative and governance arrangements. This research argues that a similar distance exists between those for whom unsustainable debt effects and those imbued with the power to effect policy and legislative arrangements pertaining to it.

Coultrap (1999) takes up the argument where Weiler et-al. leaves off. Coultrap introduces the idea of a parliamentary democratic deficit. Given that European nation states arrange themselves around the ideal of parliamentary democracy, he contends that this is really how the democracy deficit is usually conceived of, at least in the European context. However Coultrap argues that even if it is found that there is a deficit of parliamentary democracy this does not automatically prove that the EU is necessarily undemocratic. He points instead to a model of pluralist democracy, (a political system in which there is more than one centre of power) arguing that this conception brings greater clarity to assessing the democratic credentials of current institutional arrangements in the EU context (Coultrap, 1999, p. 130). It is perfectly possible then, to transpose the concept of pluralist democracy into the international arena, but even in doing this, this research still finds that IFIs lack democratic legitimacy. In other words, even if we think of a deficit in terms more liberal than those that would
reflect the character and nature of a parliamentary democracy, in the case of IFIs, a deficit still exists.

This is a point on which Katz (2001) seems to concur, finding Coultrap’s assessment that there is a bias towards models of parliamentary democracy in the discourse a fair one, particularly in the European context, however he does not concede that Coultrap’s stateless model of pluralism much better addresses the problem of democratic legitimacy. For Katz, the Coultrap model too easily degenerates into one of government by technocracy (Katz 2001, p. 58), which is almost exactly what can be found in international governance arrangements in a global context.

From a different perspective, Nanz and Steffek (2004) explain that the theory of deliberative democracy conceives of legitimacy as something generated by deliberation between various agents and actors. Decisions are arrived at via a process whereby participants examine each other’s interests and rationalize them with a view to the common good (Nanz & Steffek, 2004, p. 314). A democracy deficit therefore does not reflect the extent to which an institution or organisation operates within the parameters of its mandate, but rather it “relates to a deficiency in the practise or principles defined by social equality” and “the rightfulness of the norms, rules and principles that constitute them” (Nanz & Steffek, 2004, p. 317). In this regard, the actions of IFIs can only be seen as legitimate so long as they are supported socially. In a contemporary context, socially means globally. Current civil society arrangements (as so described in the following segment of this section) suggest that indeed they are not.

Admittedly, the view that these organisations are operating in the absence of a democratically legitimising mandate is not shared by all. Like the globalisation project itself, IFIs, TNCs and networks of global interconnectedness are perceived in any number of ways by any number of parties. While “for some, they herald in a new and attractive form of global governance, enhancing the ability of states to work together to address common problems without the centralised bureaucracy of formal international institutions” (Slaughter, 2003, p. 289), for others this view is most naïve. Many contend that “these networks portend a vast technocratic conspiracy, a shadowy world of regulators bent on “de-politicizing” global issues in ways that will inevitably benefit the rich and powerful at the expense of the poor and weak” (Slaughter, 2003, p. 289). The view that civil society and activist groups have represented generally reflects that articulated by Bond (2006) that “the problem is simple. The gaze to the powerful takes for granted that the G8, the WTO, Bretton Woods Institutions and Third World states elites are the solution, not the main part of the problem” (p. 116).

Certainly the remit of IFIs has expanded over the last thirty years and parallel developments in transparency, accountability and democracy within their infrastructure and processes have failed to materialise. The original purpose of the IMF was to oversee the monetary and exchange rate policies of its member states and the purpose of the World Bank was to finance economic development. Recent years have seen the jurisdictions of these institutions so expanded that their role now
stretches into all aspects of national economic policy, including assessments of the rule of law, good governance and judicial reform. Via the apparatus of intrusive loan conditionalities, the influence these institutions exert over borrower or member state countries has become untenable. As Jochnick and Preston (2006) note:

...the political, economic, and legal pressure wielded by creditors on debtor governments has, according to the UN Secretary General, “led to the erosion of national sovereignty and domestic control (and shifted) the initiative in formulating economic policies from national authorities to international sources” (Jochnick & Preston, 2006, p. 134).

What we can understand about democracy deficits then, is that historically they are born out of assessments made with regard to the EU context and that they are understood in different ways. Irrespective of which way the term is being conceived however, there is reasonable consensus that there is a deficit of something like democracy within and around the institutional arrangements of global governance. This research contends that this deficit exists not only within the institutional processes and procedures of IFIs, but also in the failure to respect the democratic autonomy of national parliaments, evident in the way these institutions require governments surrender much of their sovereignty also.

**Democracy Deficits and the Operations of International Financial Institutions**

Ultimate oversight of both the IMF and the World Bank rests with the Board of Governors who meet just once a year, which seems to suggest a lack of rigour even by the most liberal standards. Responsibility for management of the day-to-day administration resides with representatives of member states called Executive Directors (EDs), and a total of 24 EDs sit on the Executive Boards. Country specific EDs are reserved for the US, UK, France, Germany, China and Japan. All the other states form groupings to get enough votes to have an ED elected. Whilst EDs are technically empowered to dismiss the Managing Director (MD) for the IMF, or President for the World Bank, this would be an extraordinary occurrence as appointment of each is based on a long standing political agreement between the U.S and Europe; the U.S appoints the President for the World Bank and Europe the MD for the IMF and neither seems likely to rescind this privilege. In 2009, agreement to an open, merit-based and transparent process for the selection of IMF management was reached, however this has yet to be fully implemented in the case of the MD. When these organisations were initially established, powerful EDs were shadowed by elected counterparts; treasury and finance ministers as well as the state central bank governors in individual nation states, a measure
appropriate to the narrow and specific focus of these institutions. Given that conditions attached to
loans now intrude upon policy making areas as diverse as healthcare, education and social welfare,
the expertise of treasury and finance ministries is being stretched to oversee portfolios for which they
have no special aptitude.

The Executive Boards are considered a vital link between the institutions and constituent countries,
however the legitimacy of this role is doubtful given that the five largest states enjoy exclusive
representation and the other one-hundred and eighty-one states are grouped in respective
constituencies, all whom share nineteen representatives between them. It is notable that China is
now able to elect its own ED without joining any grouping. Nevertheless, a representative breakdown
of these proportions creates significant blind spots. Not only does this division not adequately reflect
the membership of constituent countries, but member state governments are blocked from directing
the agenda or participating in the decision-making processes.

The dominant five western EDs of the World Bank account for a joint voting weight of 38.32 per cent,
in comparison to the twenty-three African states which constitute Francophone Africa at 1.34 per
cent, and the twenty African states which constitute Anglophone Africa at 3.01 per cent (Adaba et-al.,
2003, p. 4). This voting allocation excludes African states (who arguably have the most dependent
relationship with these institutions) from securing the protection of their interests. Within the IMF,
the voting power is assigned via quotas, where basic quotas are allocated to all countries in equal
amounts, however the significance of basic votes is being eroded as the number of basic votes to
total votes has steadily declined. Adaba et-al. note that in spite of the increased inclusion of
developing countries into the infrastructure of the IMF:

...the proportion represented by basic votes in the total decreased (from 11.3 per cent to 2.1
per cent), which raised the relative voting power of larger countries. This has substantially
shifted the balance away from the compromise agreement contained in the Articles of
Agreement that was designed to protect the participation of smaller countries (Adaba et al.,
2003, p. 4).

At the time of construction, this quota regime was designed to serve overtly political purposes; in
fact it is bewildering that the quota formula has evolved so little to accommodate changes in
membership over recent years. Rudd picked up on this theme in 2009 noting:

... it makes no sense that the governance structures of the global financial system today
reflect the balance of power in 1944. It is only reasonable that if we expect fast-growing
developing economies like China to make a greater contribution to multilateral institutions
such as the IMF, they should gain a stronger decision-making voice in these forums (Rudd,
2009, para 4).
Currently the quota formula is a function of average of GDP (50 percent), openness (30 percent),
economic variability (15 percent), and international reserves (5 percent).

Nor does the norm of consensus decision-making in the Executive Boards operate to counter the
significant power imbalances. The consensus agreement does not require unanimity, nor does it allow
any one member the power of veto. Furthermore, the votes of EDs are not made public which means
that it is not possible for the constituents to understand the position of particular EDs with respect to
economic policies and programs. As Adaba et-al. point out, in order to “enhance the transparency of
the Executive Board’s decision-making process, countries should be required to reveal their positions
taken during board discussions, and voting rules should be changed to a formal casting of votes
(Adaba et al., 2003, p. 2)

However voting quotas also house another double standard. Not only do quotas determine the level
of impact a country can exert over decision making, but in terms of the IMF and their standard
instruments, also the level of financing the country is entitled to tap. The financing available to
member countries is 200-600 per cent of their quota. In this way, developing countries that are
allocated smaller quotas have diminished access to IMF resources when compared with their
developed counterparts.

The relationship between member states and the institutions is therefore too imbalanced and distant
to function as a genuine mechanism of representative accountability. Langmore and Fitzgerald (2010)
argue that the governance of both the IMF and World Bank is exclusionary, and that the scales tip
heavily in favour of western nations. They contend that:

...this imbalance marginalises the voices of large and smaller developing nations. This
difficulty is further exacerbated by the unfair majority rules effectively requiring the
affirmative vote of the US for major decision (2010, p. 45- 48).

The Sovereignty of National Governments

Unfortunately the structure of voting quotas is but one amongst a multitude of problems which
undermine the normative credibility of the IMF and World Bank as democratically legitimate. Both
institutions have been accused of a mono and myopic pathology in their approaches to problem
solving. “As some analysts have pointed out, the Fund and the Bank are overwhelmingly Anglo-Saxon
in their approaches to economics. According to one survey, 90% of IMF professionals with PhDs
received them from US or Canadian universities” (Adaba et al., 2003, p. 6). Reflecting this, the exit
from debt strategies imposed upon poor countries by the IMF and World Bank have been unyielding
and short-sighted. Countries seeking debt relief are compelled to conform to an inflexible style of economic management and policy implementation. If countries refuse to comply they are excluded from debt relief. This type of punitive compliance mechanism represents a form of coercion which compromises the autonomy of national governments. HIPC countries in sub-Saharan Africa represent some of the worst affected in this regard. Cheru notes that:

...because most of these countries have very weak political structures, an International Monetary Fund and the World Bank condominium has been imposed over them under the guise of providing aid. As a result, these countries have ceded important parts of their sovereignty (2006, p. 40).

Part of the strategy that has enabled these strongholds of economic and political power to become so embedded is the repeated practice of separating economic questions from social ones. This position makes problem-solving in a globalised context more difficult, and is almost certainly contrived, considering the great lengths often taken to eliminate economic questions from the political arena. The UN has continually expressed frustration with Northern governments and IFIs and the manner in which they exclude countries of the South from meaningful participation in process of deciding economic questions that affect the social conditions of their citizens. In a global context at least, the politics of economic power is a politics of exclusion.

Moreover, lending itself (when it happens, the circumstances under which it is offered, and to whom it is made available) is an overtly political process. Frequently policy is “undermined by politically motivated loan decisions, whereby donor nation’s foreign policy preferences have been injected into loan decisions” (Langmore & Fitzgerald, 2010, p. 45-48). The IMF and World Bank’s financial regulatory regimes, and biased lending arrangements, have intruded upon the autonomous formulation of economic and social policy in most every state with which they have had dealings. Indeed, this is a defining feature of their lending activities. So widely accepted is this characteristic that even:

...in the midst of the South Korean general election in 1997, just following the East Asian crash, both candidates for the Presidency were requested by the International Monetary Fund to sign a confidential declaration to abide by the conditions of its proposed financial rescue package, irrespective of the election outcome (McGrew, 2012, para 9).

Cheru argues that this level of intrusion is deliberate and pre-mediated. Tying debt relief to conditions determined by creditors arguably undermines the priorities and initiatives of African governments while giving creditors an undue degree of control over governance arrangements. Cheru insists that preservation of that influence and control is far more important a factor in the G10 approach to debt policy than recovery of funds loaned (Cheru, 2006, p. 51).
The Basel Committee and the Paris Club

The Basel Committee represents another nucleus of unaccountable, un-mandated power. Shrouded in secrecy, only G10 countries (Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, Switzerland, United Kingdom and United States) are permitted membership to the Committee despite the fact that its regulations governing the banking sector are expected to be adopted globally. This brazen rejection of democratic principles is argued to be in facilitation of efficient decision making, a rationale which exposes the superiority complex which has come to characterise this and other financial institutions. The assumption is that if regulators of G10 countries want to act expeditiously for the benefit of all affected, they must act alone; a subtle statement about capability which assumes that regulators from developing countries are not well equipped to deal with the highly technical nature of financial and economic problems. The inference is that committee members are “familiar with the state-of-art financial practices and devise methods to contain their risks, while regulators from other countries would lack such experience and expertise. The current crisis has spectacularly demolished this argument (Ibase, 2009, p. 8).

Despite the exclusionary way in which regulatory regimes for the international banking sector are formed, developing economies are nonetheless expected to comply with all requirements. Whilst in an official sense, implementation of the Basel Accord is voluntary, this claim is terrifically far-fetched in reality. Countries that neglect to implement it face serious sanctions, including a loss of access to IMF and World Bank funding. Furthermore, loan conditionalities commonly include a requirement to comply with international regulatory benchmarks, and bank branches from developing countries are only authorised in high-income countries if their home country supervision meets Basel standards.

Since the financial crisis of 2007-08 many of the arguments that organisations like the Basel Committee advance to defend against the need to incorporate greater accountability and transparency mechanisms appear moribund. The democratic deficit in international regulatory entities failed to make the world economy safer and more stable. In fact, the list of shortcomings in the financial rules of behaviour proposed by such entities is so prodigious, that to continue to require other countries to orient their conduct towards those very guidelines seems certainly disingenuous (Ibase, 2009, p. 8).

There has never been a more opportune moment for these institutions to address such concerns, nor is requiring more accountability from these organisations so fantastical a thing, ideologically speaking. The narrative maintained by organisations like the Basel Committee, which levels the accusation of poor economic practice against those who seek to place limitations on free market capitalism, is
beginning to look like propagandising. Both the European and Asian models of capitalist social organisation have managed to incorporate a different and more cautious space for the financial system. In light of the systemic failure of unregulated financial markets since 2007, the credibility of these alternate systems has been infused with new validity.

This should be good news especially to developing countries, which have been forced to adopt supervisory methods such as those created by the Basel Committee, but that may now recover some degree of autonomy in this matter (Ibase, 2009, p. 31).

Furthermore, the way in which the principal of self-interest has been interpreted by these organisations as something that applies singularly to the individual is also highly selective. Given that the rational choices of self-interested actors is one of the foundational principals upon which practice of modern economics is based, the suggestion that members of the Basel Committee assemble for self-interested rather than altruistic reasons should not be treated as incredulous.

Regulators, central bankers and financial business executives frequently live in proximity, which in itself could not be so serious a problem were members of other social groups invited to take an effective role in their meetings (Ibase, 2009, p. 20).

Only by opening up the institutions of financial sector regulation to broader membership can a more balanced view of the role that the financial sector should assume be arrived at. After all, the key objective of financial regulation is “to shape financial systems that serve the productive system, instead of subordinating it, support full employment and development, and reserve systemic stability” (Ibase, 2009, p. 27). Like other financial institutions, the Basel Committee has not only failed to encourage vigorous debate, but has demonstrated both a lack of imaginative talent and a deep disregard for those upon whom their decisions impact.

Should it take place, reform of both the financial sector in general, and the Basel Committee in particular, is likely to be slow. The effects of the 2007-8 financial crisis have highlighted the need for the protection of the citizen to be placed at the heart of the regulatory reform, which should address a number of problems. These problems include the dominance of the financial sector over decisions regarding production and employment, the severity of boom-bust cycles (and the burden this ultimately places on taxpayers) and the way in which it services businesses and households, or fails to. Such reform seems improbable, particularly when considering the reluctance on the part of developed countries to acknowledge the right of each country to implement regulatory strategies that best serve its own interests, especially when such strategies do not coalesce with Basel Committee recommendations. It is not enough that developing countries be better included in processes, procedures and policy formulations, but inclusion needs to be meaningful and voluntary. Especially given that in the past “it has frequently happened that some voice is given to developing
countries, only to disregard their demands or to pay lip service to them in diplomatic statements and communiqués that are not really intended to be implemented” (Ibase, 2009, p.36).

The Paris Club is a significant forum where creditor countries renegotiate debts and the Paris Club ‘treatment’ in the term which refers to either a renegotiation of the debt of a developing country to the Paris Club. The Paris Club has nineteen permanent members including the U.S, Austria, Australia, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Netherlands, Norway, Russia, Spain, Sweden, Switzerland, and the U.K. Whilst other creditors may participate in negotiations, this occurs on an ad-hoc basis.

The London Club, different in nature, is an informal group of private firms, that meets in London to renegotiate commercial bank debt. There is no permanent London Club membership, but rather at the request of a debtor nation, a London Club meeting of creditors may convene for the purposes of debt restructuring.

Rather than existing as a formal institution, the Paris Club is a set of rules and principles for debt relief that its members have agreed upon. The French Treasury provides a small secretariat, and a senior official of the French Treasury is appointed chairman. Furthermore, representatives from IFIs and the regional development banks are a party to Paris Club negotiations.

This very brief reflection on the Basel Committee and the Paris Club re-iterates the manner in which democracy and accountability are being eroded from a number of angles and via a number of organisations and institutions. Although IFIs have contributed significantly to this erosion, they have not acted in isolation, and nor is the erosion of democracy limited to the arenas within which they conduct themselves. These agencies have not independently sought to instil genuine transparency or accountability mechanisms into their own organisations in spite of mounting pressure from civil society agents. This research contends that a human rights approach is not only useful in bringing pressure to bear in this regard, but that it also has the potential to serve a deeper metaphorical purpose. The protection of economic and social rights by sovereign national governments within their borders sends a powerful message about proprietorship. Globalisation has increasing meant that governments in poor countries are subservient to the interests of powerful forces outside their control; it is rousing to imagine them pushing back against these forces and requiring greater democracy in their processes and procedures.
Accountability and Transparency Deficits

The liberalisation of both trade and financial markets, the relentless creep of TNCs, and the increased involvement of the BWIs in ensuring that developing countries comply with the macroeconomic policies which promote the neoliberal paradigm have defined the last three decades (Adaba et-al., 2003). The precarious balance struck between the BWIs and TNCs has meant that the global economy is vulnerable to frequent crises that beget often calamitous social consequences. In its current incarnation not only does the system not facilitate adequate economic growth, or a dignified distribution of the benefits accrued from growth, but it operates in a sphere almost entirely free from the constraints of accountability, and has failed:

...to acknowledge accountability to the body of social and environmental policy guidelines, norms and standards of the UN, which ought to be providing the tools necessary to redress the imbalances inherent in the current global governance arrangements (Adaba et-al, 2003, p. 2).

The concept of an accountability deficit is not a glamorous one, yet in reality it rests at the epicentre of much of the conflict that has plagued the globalisation project. There are certainly different depths to accountability deficits, and different extents to which agents have declared themselves exempt from compliance with accountability mechanisms; evasive posturing of IFIs is one thing, the flagrant disregard demonstrated by TNCs for any apparatus which potentially set limits to their ability to accumulate profit is quite another. Of course it is easy to suppose that TNCs serve their own interests exclusively, this is considered a primary economic instinct. The BWIs however, were established and mandated expressly for the task of fostering global economic stability, designed in response to a perceived public need to serve a singular public function. Given this, it seems indefensible that these institutions are not accountable; why are they not accountable? And why is it so difficult to make them so? Keohane (2002) argues that the problem is not just one of accountability, but rather the type of accountability in question. Keohane contends that accountability is a distributional issue; not a matter of if these institutions are accountable, but rather to whom.

Keohane categorises accountability as either internal or external, where institutions can be “internally accountable to the states that authorised their creation and that provide financial support” (Keohane, 2002, p. 18) but should also be externally accountable to those upon whom their actions have the greatest impact. Keohane claims that “the real issues are whether the balance of internal and external accountability is justifiable and whether multinational organisations are accountable to the right groups” (Keohane, 2002, p. 19). It is the argument of this research that in the case of IFIs, the balance between internal and external accountability is so lopsided as to be almost entirely ineffectual.
In reality this question of accountability speaks to other deeper questions of culpability. There has been too much failure, too consistently, for too long. Raffer contends that the supposition that these institutions are acting to progress their own interests at the expense of positive outcomes for poor countries is the only logical conclusion to draw in the face of the evidence, after all “good politicians have done this over centuries. It would not be surprising if this had happened in the case of sovereign debts too” (Raffer, 2010, p. 73). Raffer contends that exploiting institutional arrangements unfairly is a relatively simple exercise in making “clear and consistent efforts to increase one’s influence, as well as (having) an ability to use emerging opportunities to one’s advantage” (Raffer, 2010, p. 73).

This possibility strikes at the very core of the problem that accountability seeks to redress. If these agents are not being held to public account, how is it possible to know whose interest they are acting for? It is within the rights of the polity to demand that long outstanding questions be addressed, not just of the World Bank and IMF, but of other powerful financial bodies, such as government export credit agencies and CRAs in general. Hertz (2004) poses the question:

...why exactly, are the governments of the developed world providing these loans? In some cases, it is to serve their geopolitical interest, but more often it is to serve the different, though related interests of their domestic corporations, so manifest in the Iraq example (Hertz, 2004, p. 45).

Indeed the accountability question cuts deeply into the broad anxiety surrounding globalisation. In the context of advanced capitalism and international markets, it represents a great deal more than demanding actors justify their actions. It is a public declaration of the significance of ownership. Democracy is the political demonstration that ownership of the world (or at least the nation state) resides in some part in the collective approval of its citizens. A citizen is charged with many responsibilities to the state; they must make financial contribution to it, elect and judge those who represent it, and in times of real or perceived threats to national security are asked indeed to die for it. The reward for this somewhat extraordinary commitment is shareholder-ship in the collective ownership. In acknowledgement of this arrangement, the institutions of power within the state are ultimately charged with serving the interests of the citizenry (under the direction of the parliament) and are subject to justify themselves in this regard. Citizens are furthermore entitled to know that their best interests are being served. They are entitled to question the motivations of those in power. This constraint is a defining feature of democracy. In this case, those who bestow power (the citizenry) are unlikely to feel oppressed by it, even if they are. Frequent demonstrations of accountability serve to remind the citizenry that they are not likely to be sacrificed to the interests of powerful elites, but that they bestow power or limit it periodically as they see so appropriate. This statement about ownership is profound and embedded in the collective consciousness of citizens of advanced democracies. The people own the powerful, not the other way around. As Keohane
In democratic theory, individuals are regarded as inherently equal in fundamental rights, and political power is granted to officials by the people, who can withdraw that authority in accordance with constitutional arrangements. The legitimacy of an official action in a democracy depends in part on whether the official is accountable. Hence a key question of global governance involves the types and practices of accountability that are appropriate at this scale (Keohane, 2002, p. 3-4).

For this traditional understanding of accountability to be functional, both agents must understand and willingly accept the terms of the relationship. The advent of globalisation has distorted traditional accountability relationships to the extent that it is now often absent this mutually co-operative component; demands for accountability are not recognised by the accountable party and therefore accountability does not exist. Keohane describes this situation as “seeking to hold the agent accountable as a ‘would-be principal’” (Keohane, 2002, p. 13).

In this sense it is possible to think of democratic accountability in the international sphere only in a hypothetical sense. Whilst it is conceptually conceivable that democratic accountability in world politics involve a system in which agents whose actions impact people in other societies must report to them and be subject to sanction where appropriate, in reality the prospect of this is highly unlikely. In Keohane’s view, “the most serious normative problems arise with respect to what I will call external accountability: accountability to people outside the acting entity, whose lives are affected by it” (2002, p. 14-15). This category is the most useful in conceiving where the deficit lies regarding the actions of IFIs in the context of problem debt in poor countries. This research is concerned with rights protections for those upon whom the actions of these institutions have the deepest impact, but to whom no accountability is required, not even it seems, as a ‘would-be’ principal.

There is no doubt that the impact of IMF and World Bank policy, the intrusion of TNCs, and the violence of western military on external parties is significant and usually negative. Keohane contends that:

...the normative question arises in these situations: should the acting entity be accountable to the set of people it affects? This is a very difficult normative question. Merely being affected cannot be sufficient to create a valid claim. If it were, virtually nothing could ever get done (2002, p. 15).

This research does not necessarily concur with Keohane on this point. On a great many occasions one might suppose that it is indeed preferable to the affected party that nothing does get done. In any case, desirable as it is that some kind or external or democratic accountability be brought to bear on IFIs, in the absence of that, there are other less conceptually overwhelming mechanisms that can act
as a check and balance to these strongholds of power. Accountability need not be exclusively democratic, but can also be hierarchical or pluralistic (where different arms of government are accountable to each other). Most systems of accountability in constitutional democracies combine democratic, hierarchic and pluralistic measures.

They rely on a number of different mechanisms, not just on hierarchy and elections. They also rely on horizontal supervision (checks and balances), fiscal and legal controls, peer review, markets, and general concerns about their reputation (Keohane, 2002, p. 13).

Almost certainly the concept of accountability should be interpreted more liberally when considered in an international context, as it is probably fantastical to trace cosmopolitan accountability exactly around a blueprint designed for nation states, which depend heavily on electoral accountability. Keohane argues that many proponents of greater global governance are reasonably accepting of a number of different types of accountability, not only democratic, hierarchical and supervisory, but also:

...legal accountability (interpreted by courts), and peer accountability among government agencies that compete with one another. Even in the absence of institutionalized accountability mechanisms, reputational accountability can also play a role (Keohane, 2002, p. 9).

These diversified understandings of accountability have certainly shown early promise if the EU is taken into consideration. The European Parliament is subject to electoral accountability, but it is the other more nuanced mechanisms of accountability that act as a check and balance in the European context.

EU institutions are accountable to governments; agencies within the governments are held accountable to one another through the process of ‘comitology’; a considerable degree of transparency holds participants, much of the time, accountable to the public through the media (Keohane, 2002, p. 9).

Sullivan argues that for IFIs specifically, greater pressure should be applied to force these institutions into a stronger discourse with civil society. Sullivan considers the problem to extend outside the parameters of formal procedures and into the realm of citizenry, arguing that building accountability “requires public endorsement, or at least consultation, relying on global participation as wide possible” (Sullivan, 2010, para 10). Currently IFIs seek external input and allow for citizen participation only under the most serious duress and on exceedingly inflexible terms; “the current practice of seeking to isolate and avoid any involvement and participation of civil society in major conferences, as seen in the G8 and G20 conferences for example” (Sullivan, 2010, para 12) is a case in point.
The Politics of Change and Why Democracy Matters

Rodrik (2011) argues that a reassertion of national democratic control over the market place is the most plausible way to begin to bring elements of democracy and accountability into the infrastructure of global governance. Whilst such measures are prone to accusations of protectionism, Rodrik contends that “expanding the scope for national governments to maintain regulatory diversity and rebuild frayed social bargains would enhance the functioning of the global economy” (Rodrik, 2013, p. 2).

In contrast to this, the majority of policy elites champion a euphemistic concept of global governance, whereby increased accountability and transparency is considered achievable through better representation on the IMF Executive Board, a more efficient G20, and a more rigorous roll-out and implementation of standards prescribed by the Basel Committee. This view champions a strengthening of the institutional framework of the global economy in order to achieve more effective and accountable global governance. Rodrik finds this view simplistic and argues that strengthening the institutions does nothing to address the situation that these institutions are not representative of global citizens but are inter-governmental bodies. Their accountability to national electorates is tenuous at best, and for this reason, they are not imbued with the legitimacy that genuinely representative institutions enjoy. Where Keohane regards the EU as a promising example of diversified accountability, Rodrick argues that “the travails of the European Union have revealed the limits of transnational political community-building, even among a comparatively limited and similar set of countries” (Rodrik, 2013, p. 3).

Keohane’s positive views of accountability within the EU context however are tempered by the understanding that “we can expect power-holders to seek to avoid accountability when they can do so without jeopardising other goals” (Keohane, 2002, p.16). Furthermore Keohane somewhat caustically notes that where there is not a constitutional system in which:

...the ability to avoid being held externally accountable can be viewed as one dimension of power. Discussing accountability without focussing on issues of power would be like discussing motivations of corporate lenders without mentioning money (Keohane, 2002, p. 16).

Keohane understands accountability to be a deeply intertwined with concepts of power, whereby “power comes from asymmetrical interdependence in favour of the power-wielder” (2002, p. 24). The contemporary global economy deals with citadels of power so enormous that it is very nearly impossible to comprehend them. Keohane’s conception of the interrelationship between power and
accountability is clearly reflected in the infrastructure of global economic governance, where national governments are asymmetrically interdependent on power-wielding financial institutions via the apparatus of debt.

Furthermore, it is not altogether clear why the expectation to power has become so entrenched in these institutions. A study conducted between 2003 and 2005 by the UN Sub-Commission on the Prevention of Discrimination and the Protection of Minorities levelled serious criticism at the BWIs, describing them as too heavily focussed on macroeconomic factors and failing to incorporate the transparency, participation and good governance standards that they required of their member states (Özden, 2007, p. 22). Where inter-governmental agents of power are not accountable it is difficult to conceive of them as in servitude to the citizenry. Where they strenuously resist the imposition of accountability mechanisms, it is even more so, particularly when testament emerges from within the ranks of these organisations in support of the contrary. Since the mid-1980s, a number of prominent figures have resigned their positions at the IMF and World Bank in protest against the expectation to unethical conduct. “Davison Budhoo, for example, resigned from the IMF in 1988, claiming it had ‘knowingly created international credit problems from Trinidad and Tobago,’ claims backed up by subsequent independent tribunal” (Hertz, 2004, p. 93). A few short years later, in 2000, Ravi Kanbur, the then primary author of the World Bank’s World Development Report on Poverty, resigned his post claiming that he faced “immense pressure from the U.S Treasury to tone down sections on the importance of social spending and redistributive tax policies in tackling global poverty” (Hertz, 2004, p. 93).

Raffer argues that the extent to which the IMF and the World Bank operate to progress their own interests is both obvious and troubling. For Raffer, the biggest obstacle to an effective debt-exit strategy is a general unwillingness to acknowledge the extent and nature of the problem, or to address it in an open and transparent manner. Raffer contends that whilst creditors remain unwilling to accept that an exit from the debt crisis requires functional insolvency mechanisms, real progress will continue to be elusive contending that the “steadfast refusal to recognise realities officially has remained the most important hindrance to proper debt management and to a viable solution of the crisis to the present day” (Raffer, 2010, p. 9). Moreover, it is his view that this unwillingness to address the problem is deliberate as the benefits to the creditor for failing to resolve the debt crisis are, and have always been, simply too good for rational self-interested actors to pass up, after all, “profits from early rescheduling were enormous” (Raffer, 2010, p. 13).

This reality raises a number of technical questions concerning reckless lending, creditor responsibility, usurious interest and odious or illegitimate debt, however at heart, the question of ‘getting away with it’ will always be one of accountability.

Raffer’s argument supports the contention of this research, that IMF and World Bank efforts to design
a successful debt exit strategy for poor countries have been a manifest failure, but not only this; these institutions fostered the climate for initial debt accumulation to begin with and then continued to nurture it for over a forty years period. Raffer argues that these institutions have been central to the construction of crisis since its inception, noting that “the first unsuccessful adjustment programmes existed before 1982” (Raffer, 2010, p. 13). A defence often invoked by the IMF against this kind of allegation is to claim that they “did not have sufficient leverage then to force countries into necessary reforms” (Raffer, 2010, p. 13), however this type of response only succeeds in transferring the charge of incompetence to another portfolio. If the IMF did not have sufficient leverage to ensure necessary reforms were undertaken, why were the programs financed to begin with? Raffer contends that the leverage argument “would be at odds with the claim that debtors themselves ‘own’ programmes only ‘supported’ by the BWIs” (Raffer, 2010, p 13). In his criticism of the BWIs, Raffer is uncompromising, charging them with unqualified incompetence, of shirking responsibility, of being secretive, devious and duplicitous. Raffer alleges that, “the BWIs completely failed to realise in time how serious the situation was. It took them an embarrassingly long time to acknowledge the nature and dimension of the debt problem, as a host of evidence from their own publications proves” (Raffer, 2010, p. 13).

When the powerful trespass un-mandated too long on the goodwill of a citizenry ex-communicated from the political process, a sense of powerlessness turns to frustration, outrage and habitually violence. What democracy is supposed to proliferate is the ethos that it is our world, that we share it and therefore have a duty of care towards it. Increasingly globalisation is proliferating the idea that it is their world and we are being exploited by it, in ever more perverse and dehumanising ways. This erodes our duty of care towards the world and replaces it with a sense that we must somehow survive it. And in many respects, this is what the citizenry of the global South has done, survived the world that IFIs and TNCs have imposed upon them. We find ourselves in a situation where “those whose policies have contributed to the crisis are asked to fight it. Dracula is in charge of guarding the blood bank” (Raffer, 2010, p. 37). The citizenry is not powerful because the institutions of power are not accountable to them. This transgresses the purpose that democracy was designed to serve, that of re-balancing power away from its natural tendency towards excess and the few.

Proposals to increase the level of accountability in the institutions of global economic governance that were made by CETIM to the Commission on Human Rights some dozen years ago seem more relevant than they have ever done, although the likelihood of them being implemented is doubtful. The CETIM Report recommended that initial audits be carried out by independent bodies such as the UN Commissions for Africa, Latin America or Asia, on the legitimacy of loans prior to the acceptance of any repayment obligations or conditions. It also recommended that an international and independent jurisdictional commission be set-up to establish exactly what responsibility banks, private business enterprises and governments had to the loans over their lifespan. As Özden points out “the corruption runs in both directions, it is therefore appropriate to speak of imposing a moral
order on the economy” (Özden, 2010, p. 17). It is not only those who do the lending at the time of lending, but those who do the borrowing and what becomes of the funds thereafter, which too often end up in the personal foreign bank accounts of corrupt rulers of indebted states. The CETIM Report argued that rulers using funds in this manner should be required to account for the legitimacy of their wealth. “An investigation should be conducted into the tax breaks and other measures accorded to banks allowing them to cover their losses. The tax payers have a moral right to be informed about the real actions of the actors on the economic scene” (Özden, 2010, p. 40). Not only does accountability run in both directions, from lender to borrower and back again, but it happens on a time continuum. Both parties need to be accountable over the lifespan of the debt cycle, not just at the point of lending, but at the point of accepting deposits into foreign banks.

In the ongoing absence of accountability mechanisms, a curious phenomenon has occurred. One might expect that un-mandated institutions would eventually be forced to confront the illegitimacy of their own authority, however this has not proved to be the case. Lack of accountability only seems to lend authority to the claim that these institutions make to power. This development is unacceptable. The phenomenon of globalisation is neither new, nor poorly understood. In describing the impacts of contemporary globalisation, Keohane (2002) notes that:

...transnational relationships are both extensive and intensive. States and other organisations exert effects over great distances; people’s lives can be fundamentally changed, or ended, as a result of decisions made only days or moments earlier, thousands of miles away. In other words, interdependence is high (Keohane, 2002, p. 1).

It is not satisfactory that institutions and organisations of such intrusive breath and reach dodge the accountability bullet. Whilst they continue to do so, states should feel not only justified, but rightly compelled to limit their actions and impacts by whatever means necessary. A human rights approach in general, and the ICESCR in particular, is ideal for this purpose. Whilst this research is focussed on IFIs, the argument is transferable and can be extrapolated outwards to include any agent or institution that infringes upon the provision of human rights within the state, particularly TNCs. A key concern of the argument of this research is self-preservation, meaning it is the state that must assume responsibility for the protection and promotion of human rights within its borders, and in so doing creating the expectation that all other actors impacted by such measures (agents external to the state in particular) will have to adjust themselves accordingly.

Only very recently there have been indicators of this type of national self-empowerment beginning to take shape. In Portugal in April 2013, in response to proposed austerity measures to be implemented in an effort to secure a European bailout from the IMF and the European Central Bank, the Portuguese Constitutional Court ruled many of the measures unconstitutional. The Court found that the government had no authority to violate the constitutional rights of Portuguese citizens on the
orders of outside institutions, European or international. Similarly in March 2013, the Egyptian cabinet rejected an IMF loan and is subsequent conditions on the grounds that any loan agreement could only be agreed within the framework of the country’s own economic programme (Al Jazeera, March 2013).

Certainly, developing effective accountability mechanisms in the institutions of global economic governance seeks to traverse complicated terrain. As Keohane notes, “we need to remind ourselves that a universal global society remains a dream, and one that may be receding from view rather than becoming closer” (Keohane, 2002, p. 6). It is not the argument of this research that such mechanisms should immediately materialise but rather that the absence of them is significantly problematic for governments of nation states to be justified in prioritising and protecting their own internal and national democratic processes, their own accountability mechanisms, and their own obligations to human rights covenants, over and above the priorities of IFIs and other national governments.

Keohane argues that “to develop a theory of external accountability, it may be necessary to construct a theory of the duties that parties owe to one another in a poorly institutionalised but increasingly globalised world” (Keohane, 2002, p. 31). Keohane’s analysis could indeed be expanded to include an understanding of the duties that parties owe to themselves. This research recognises that whilst it may not be realistic to expect IFIs, foreign governments or TNCs to respect or provide for the human rights of the parties they impact, it is reasonable to expect that they have a duty to respect a state’s efforts to provide them for their own citizens. The human rights framework, and the ICESCR in particular is a mechanism for states to hold themselves to account first and foremost, expecting also that external parties respect these efforts in turn.

This brings one back to the arena and importance of national parliaments, where the argument of this research ultimately begins and ends. It is national parliaments who ultimately wear the slings and arrows of their local electorate. The financial crisis has demonstrated this emphatically. Amidst the pandemonium of crisis, it was national governments who were called upon to recapitalise the financial system, bail out the banks, guarantee debts, create stimulus and make penance to the electorate. Whilst the IMF is happy to assume authorship of economic policy for the states in which they intervene, in the event of crisis, they do not show the same enthusiasm for assuming responsibility or for being held to account. The IMF itself notes that “ultimate accountability for a member country’s economic policy must rest with the national authorities” (IEO, 2010, p. 1). It is therefore an act of the sincerest self-preservation for a state to reject advice, conditions or obligations to the IMF where the government finds that it runs contrary to the best interests of the citizenry, as the state is the party held accountable for their policy actions or lack thereof in any case.
Democracy in Practice

In practice, democracy is not a stagnant thing, and the struggle to arrive at a definition that accurately reflects a convoluted, post-globalised world is not straightforward as there are as many versions of democracy as there are parliaments who claim to be democratically elected. Moving into the twenty-first century there remains no universally accepted definition of democracy per se; even states that pride themselves on the protection of democracy (and its exportation) have not necessarily committed to an absolute conception of it.

Although democracy promotion is high on the list of US foreign policy priorities, there is no consensus within the US government on what constitutes a democracy. As one observer recently put it, “the world’s only superpower is rhetorically and militarily promoting a political system that remains undefined – and it is staking its credibility and treasure on that pursuit” (Horowitz, 2006, p 114).

Whilst concepts of democracy can reflect classical, modern or contemporary understandings, where consensus does converge, it converges upon a few key principles. These principles include:

...a government based on majority rule and the consent of the governed, the existence of free and fair elections and the protection of minority rights and respect for basic human rights. Democracy presupposes equality before the law, due process and political pluralism (David & Carothers, 2010, p. 28).

In this regard, the concept of democracy incorporates many elements which are imbued with varying degrees of importance depending on the value structure through which they are being considered.

Some insist that democracy is necessarily a dichotomous concept – a state is either democratic or not. But most measures now appear to adhere to a continuous concept, with the possibility of varying degrees of democracy (David & Carothers, 2010, p. 28).

By and large the common denominator is the notion that the “governors are answerable to the governed for their actions and omissions” (Scholte, 2004, p. 211). By this definition, democracy and accountability are inseparable bedfellows. When the governors perform pleasingly they customarily earn the mandate of the governed. Equally, when they fail to perform in a satisfactory way they are expected to explain, justify or compensate for this. When the fallout of poor governance is especially serious, the public is afforded the opportunity to oust the responsible party. “In this way democracy is a continual correction of mistakes” (Scholte, 2004, p. 213), and in this way democracy has been almost entirely absent from contemporary global economic governance arrangements.

For the purposes of this research, it is worth considering that most of the attempts to conceptualise
and frame a theory and practice of democracy, which refer explicitly to the concept of liberal democracy, also include civil liberties and a respect for basic human rights. Variants of the principal human rights elements appear recurrently in constitutions, bills, charters and covenants. Civil and political rights are those most frequently associated with democracy (freedom of speech, the press, assembly, association, and due judicial process) in recognition that “in a democracy majority rule must be combined with guarantees of individual human rights and the rights of minorities” (David & Carothers, 2010, p. 30). The right to participate is both of specific relevance to this research and crucial to a robust democracy in general. Whilst the demos cannot be forced to participate and is usually free to abstain, an animated democracy cannot be achieved without the active participation of its citizens.

Democracies flourish when citizens are willing to participate in public debate, elect representatives and join political parties. Without this broad, sustaining participation, democracy begins to wither and become the preserve of small, select groups (David & Carothers, 2010, p. 30).

This research notes that the absence of the participatory democracy in the institutions of global economic governance is particularly conspicuous.

Not only does democracy vary in its interpretation but it is limited in its reach. Roughly one half of the entire global population lives in a democracy of some description although of this half, only 12% enjoy the privilege of residing in a full democracy. These figures are subject to daily review as developments in countries such as Egypt, Libya, Tunisia, Syria and Bahrain are taken into consideration. Even still, a staggering 2.5 billion people, more than one third of the global populace, continue to live under authoritarian rule (David & Carothers, 2010, p. 1). Nor is democracy in the countries in which it is considered to flourish necessarily a foregone conclusion. The financial crisis of 2007-08 has unleashed an atmosphere of uncertainty and mistrust in not only the institutions of global governance but in national governments as well, and their ability to conduct themselves in a manner conducive to fostering prosperity and security. Widespread agitation has begun to suffuse citizen consciousness which is a not uncommon side effect of economic downturn, as the Economics Intelligence Unit notes, “economic crisis can threaten democracy, usually with a lag, through increased social unrest” (David & Carothers, 2010, p. 19).

Confirming this trend, 2009 saw incumbents thrown out of office in over 35% of elections held in democratic countries, almost certainly in a demonstration of resentment at the economic climate. Particularly notable in this regard were long-serving governing parties in El Salvador, Japan and Iceland (David & Carothers, 2010, p. 1). The ILO, drawing on the results of Worldwide Gallup poles, found that since the onset of the crisis in 2008, not only has confidence in government suffered a significant setback, but the belief that government policies tend towards fairness or foster prosperity...
has also been upended. What is especially surprising, or perhaps entirely unsurprising, is that trends towards dissatisfaction have been most pronounced in advanced economies.

Among west European countries, there is a perception of growing political extremism and social discontent. Perceptions of unfairness have increased in Latin America and remain high in Asia, and to a lesser extent, in Sub-Saharan Africa (David & Carothers, 2010, p. 19).

Therefore, in general there is less democracy, and more frustration with what democracy there is, than might have been supposed.

There does appear to be a paradoxical nature to democracy however. In spite of the frustrations of electorates, and the limited reach of democracy, what democracy there is has proved more durable than might have been anticipated. All things considered, while incumbents have been deposed from office, democracy itself seems to have survived this latest economic bungle reasonably well. Its resilience, it is argued, is largely attributable to some of the fundamental elements of it character. David and Carothers (2010) argue that:

Despite their many imperfections, democratic systems provide citizens at least some ability to express frustration peacefully through open debate and elections. This increases the likelihood that citizens may continue to accept the political system as legitimate even when the economic performance of the country suffers. Autocratic systems, on the other hand, may be more vulnerable to recessions, at least when they have traditionally relied either on successful economic performance or subsidies to the poor for legitimacy. When economic contraction occurs, popular support for the regime can quickly fade. Without the release valve of democratic institutions, autocracies are forced to quell unrest with increasingly heavy-handed tactics, often making the survival of the regime ever more precarious (p. 2).

Even in times of crisis, democracy begets stability, ironically for the institutions who may have contributed to the instability that democracy strains to stabilize. Democracy is more then, than a value, but also serves an important practical function, which beggars the question: if the institutions of economic governance were to be infused with greater democracy, could this practical dividend pay-out for them too? Would greater democracy incorporated into their infrastructure and processes encourage civil society and the global community in general to be more forgiving of their failures? Under the current circumstances, such musings are speculative at best.

So we can conclude a few things. The very conception of democracy is varied in its interpretation, its reach is limited and often fickle, and yet for all its imperfections it exhibits remarkable staying power. It is a premise of this research that democracy is not simply desirable, but essential for agents who would presume to govern, and the institutions of global economic governance are no exception in this regard. A definition as to the type of democracy that is being implied here is indeed more
complex than that which would facilitate a nation state, however the exact shape and form that democracy in the institutions of global governance should take, or which elements it should emphasise, is heavily subject to the level of scepticism or optimism through which the globalisation project is understood. Moreover, definition and perception are but two (largely theoretical) problems, as in its practical application democracy is an inconsistent and imperfect ideal. In the U.S, the so called ‘war on terror’ has had a corrosive impact on civil liberties and, as made obvious in the recent debt-ceiling stand-off, democracy in practice can be outrageously expensive. In the UK, problems of voter turnout and lacklustre political participation mean that democracy is not particularly robust or representative. Any attempt to export a framework globally that is frustrated by impediments and contradictions locally is likely to be a muddled and convoluted process. In fact civil society organisations are frequently accused of making accountability and transparency demands of institutions of global governance that are absent governments at a national level.

The Possibility of Transnational Democracy

The problem of how global or transnational democracy can or ought to function in a practicable sense has only recently begun to be addressed by democratic theorists, who traditionally confined themselves to the context of nation states. The dominant theory drew a distinction between the sovereign political community, considered the moral realm (and the domestic arena) and the anarchical society, or the amoral realm (the international arena). “In effect theorists of modern democracy tended to bracket the anarchical society, while theorists of international relations tended to bracket democracy” (McGrew, 2002, para 1). Certainly, a democratic international order has been touched upon and indeed advocated within the confines of classical liberal internationalism:

...from Woodrow Wilson’s ‘new world order’ to the early advocates of functionalism such as Mitrany, (which) sought to establish the normative and practical basis of a more democratic global polity (McGrew, 2002, p. 151).

It is an evolution of only recent years however, that has brought the discourses of international relations theory and democratic theory together in an effort to describe what a transnational democracy might look like. McGrew describes this development as the “transnational turn” (McGrew, 2002, para 2).

There are a number of converging factors that have conspired to propel questions of transnational democracy into the limelight. The explosion of globalisation, the roll-out of global democratization and the increased interconnectedness and breadth of transnational civic activism have meant that
democracy (or the absence of it) in the mechanisms of global economic governance has become unacceptable. Traditionally democracy has functioned as an integral component of rule of law as it applies to nation states, however the explosive volatility of the global marketplace has exposed the relative impotence of national governments to manage transnational forces. The task of securing internal economic security seems outside the reach of national governments which brings the efficacy of democracy in a modern context into question.

It is a premise of this research that international institutions cannot be considered democratic simply because they have evolved organically out of the infrastructure of democratic parliaments. The manner in which these organisations have grown over the last twenty years represents an intrusion upon the rights of the citizenry to transparency, accountability and democracy in the arms and mechanisms of government. In spite of this, little effort has been made by either national parliaments or the institutions themselves to respond to the concerns of an increasingly anxious civil society. Moreover “there now seems to be fairly widespread consensus that globalisation (read economic internationalism) undermines, subverts, or sets limits on democracy” (Munck, 2002, p. 12), or as McGrew notes, “under these conditions it is no longer clear, to use Dahl’s classic formulation, ‘who governs?’” (McGrew, 2002, para 3). In spite of this, efforts to curb some of the worst excess of cluster cells of unregulated power have been ad-hoc and lacklustre as “states have created new layers of political authority which have weak democratic credentials and stand in an unambiguous relationship to existing systems of national accountability” (McGrew, 2002, para 3).

Further pronouncing the failure of democratic procedures and processes to keep step with the expanded jurisdiction of the institutions of economic governance, is the increasing proliferation of liberal democracy as a standard. Curiously, as the practicability of this standard seems to be brought into some disrepute, the pressure to comply with it as a standard (at least in rhetoric) has become more commonplace, as demands for liberal democracy have surfaced in places such as Egypt and Libya. McGrew (2012) notes that, “putting aside Fukuyama’s misconceived triumphalism, whatever the causes of this Third Wave, democracy has become an almost universal political standard” (para 5). As the dust continues to settle in some parts of North Africa and the Middle East after the turmoil of the Arab Spring, the possibility that genuine representative democracy will become manifest where once were military regimes is somewhat sanguine, nevertheless democracy has become a focal point which also means it is under scrutiny. In a context where citizens across the world increasingly push for democracy in their nation states, it seems improper that the institutions of global economic governance, expelled from the loins of liberal democracies, continue to resist the imposition of transparency and accountability mechanisms.

Somewhat ironically, many new democracies which have been subject to strictures from the IMF and World Bank about the requirements of good governance are now campaigning for
similar principles and practices to be applied in these citadels of global power (McGrew, 2002, para 6).

Gill argues that this evolution is a reflection of a deeper ideological shift, which has seen national parliaments edge away from a system which attaches intrinsic value to the voice of the governed, and towards a system weighted in favour of the priorities of capital. From an ideological perspective, Gill sees this as “retraining the democratisation process that has involved centuries of struggle for representation – a development that is contested and contradictory” (Gill, 2003, p. 132). Gill refers to this as ‘new constitutionalism’, the over-arching ambition of which is to allow the machinists of the new economic paradigm to be increasingly free from the constraints of popular accountability and democratic rule.

Indeed, in neoliberal discourse, exemplified by thinkers such as von Hayek and Friedman, private forms of power and authority in a capitalist society are only fully stabilised when questions of economic rule (e.g. workplace organisation, the rights of investors) are removed from politics (that is from democracy) (Gill, 1998, p. 1).

Gill takes this argument further suggesting that what is ‘new’ about new-constitutionalism is:

...that it requires not simply suppressing, but attenuating, co-opting and channelling democratic forces, so that they do not coalesce to create a political backlash against economic liberalism (1998, p. 2).

Establishing something as subjective as the extent to which this is the conscious intention of governments and IFIs is not the focus of this research. What is however, is the demonstrable efforts of the IMF and World Bank to protect and promote the values of the political economic practice of neoliberalism, and intrude upon the autonomy of national parliaments, violating the rights of the citizenry to democratic representation. This disregard for the integrity of democratic processes within nation states has become conspicuous. Despite repeated public declarations made in IMF and World Bank reports affirming a commitment to address issues of accountability, transparency and democracy within their own procedures and processes, they have failed to do so on any excepting the most superficial levels.

This claim is likely to be considered controversial no matter how self-evident it may seem. To depart on a less inflammatory foot, the argument that globalisation has facilitated the proliferation of capitalism is now commonly accepted. “The development project, which dominated post- World War II history of the “West and the rest”, at some stage of the 1980’s gave way to what has been so described as the globalisation project” (Munck, 2002, pp. 10-21). As Munck notes “a trans-national capitalist class based on the trans-national corporations is emerging that is more or less in control of the processes of globalisation” (Munck, 2002, pp. 10-21).
The changing of the global landscape has occurred at such a speed, and is of such overwhelming breadth, that it is difficult to comprehensively or accurately describe. Infrastructure and consensus simply cannot be erected at the same speed as markets. As Munck (2002) suggests, “the net flows of globalisation, be they those of the financial markets or those of trans-national crime syndicates, can easily bypass the traditional modes of regulation” (pp. 10-21). The impacts of globalisation identified in the discourse are many, varied, and often contradictory, however some common observations are roundly agreed upon. Globalisation has not affected everyone equally and has increased the prevalence of social exclusion. This realisation has fuelled anti-globalisation movements, under the banner of which a plethora of causes vie for media and political attention. Munck (2002) argues that “the move beyond the so called Washington Consensus has already begun – albeit hesitantly – and to a large extent behind closed doors – in the corridors of power” (pp. 10-21). Munck optimistically contends that by correctly describing the current landscape and identifying what has not worked, the opportunity to better direct the future presents itself, arguing “simply that we should accept that globalisation may open doors for contestation as well as close off certain, more traditional avenues” (2002, pp. 10-21). This does present an intriguing challenge; is the globalisation project a unique opportunity to re-asses and re-define traditional interpretations of democracy and the inherent problems faced by regulating institutions that suppose to reflect its core principals? Perhaps. For Munck, the correct course of action is to encompass “alternative or stronger modes of regulation (which) could conceivably make globalisation more democracy friendly” (2002, pp. 10-21).

Whilst this is ideal, it is not something that has happened at this juncture, which leaves an uncomfortable space between reality and potential. Munck argues that “the democratic terrain is simply more complex in the era of globalisation” (2002, pp. 10-21) and this indeed sets a challenge for instruments of accountability, transparency and democracy, which will need to become more nuanced and sophisticated in accommodation. As Munck contends:

A truly global approach need not see human beings only as (or even primarily as) citizens of particular countries... The increasingly globalised economy calls for a similarly globalised approach to basic ethics and political and social procedures (2002, pp. 10-21).

Munck argues that since the landscape has changed, core approaches to ethical, social, political and economic questions need also to change. Munck’s summary of contemporary arrangements notes that:

Global governance is based on national states but accepts a terrain beyond them, the trans-national space. This is a space dominated by the giant trans-national corporations but also populated by the growing trans-national social movements. Democracy in the era of globalisation must now include a trans-national element. At this level, there is now a clearly perceived need to achieve a greater degree of social (and political) control over the forces of
economic internationalisation. Democratising global governance will, arguably, be one of the major tasks in the century now opening up, and its impact will be felt at the global, national, regional and local levels because globalisation impacts everywhere (2002, pp. 10-21).

A functional marriage between international institutions and democratic process and procedure is a tall order, and one that McGrew describes as being “amongst the most intractable of contemporary international political problems” (2002, para 6). Academic ruminations on the normative principles and possible institutional framework of transnational democracy reflect the plethora of anxieties and ambitions which plague the democratic credentials of the system of global governance in its current form. “Transparency, accountability and representation are terms which have become the new mantras of those pressing for the reform of global institutions: from the United Nations to the IMF and World Bank” (McGrew, 2002, para 8). These kinds of statements seem philosophical and too general to generate any specific change. What they have achieved however, is to leverage open a space in the discourse for a meaningful dialogue regarding the normative and institutional arrangements that might address the demands of transnational democracy.

Many versions of transnational democracy have been conjured up in the exchange, and whatever the intellectual merits of any particular design, the general practicability of such a thing seems to be mired in serious scepticism. Communitarian, realist and some radical critiques have reservations regarding its likelihood for reasons ethical, historical, institutional and theoretical.

Political communitarians, such as Kymlicka, are unconvinced by the cosmopolitan premise’s which inform theories of transnational democracy. Democracy, argues Kymlicka, has to be rooted in a shared history, language or political culture: the constitutive features of modern territorial political communities (McGrew, 2002, para 10).

These elements that Kymlicka finds quintessential to democracy do not infuse the fabric of a globalised landscape. Even though Kymlicka concedes that some form of upholstering weaves together vastly different communities in a global reality, “the only forum within which genuine democracy occurs is within national boundaries” (McGrew, 2002, para 10). Kymlicka extends his argument to include a dismissal of the EC as little more than an economic arrangement between powerful elites. Kymlicka argues that in the absence of a “moral community beyond the state” (McGrew, 2002, para 10) a demos cannot exist. Proponents of transnational democracy reject this argument, considering the nature of globalisation to be so transformative as to have ushered in an entirely more modern and sophisticated political demos, one which can navigate through and participate in a globalised political space. Arguments such as these open a Pandora’s box of complications, such as how a demos might be shaped and decided upon, and by whom? Sceptics find that the failure to address these practical limitations casts the likelihood of global democracy into serious doubt.
Without some unequivocal specification of the principles by which the demos is to be constituted it is difficult to envisage either how transnational democracy could be institutionalised, or how it would necessarily provide the basis for more representative, legitimate and accountable global governance (McGrew, 2002, para 12).

In the political realist’s camp, the obstacles to global democracy are problems of anarchy and sovereignty. Political realists accept that states frequently operate in international co-operation and in compliance with the rule of law, however this does not a global democracy make. The dynamics of international co-operation are precarious at best. The world is yet awash with political instability, violence and war, conditions not conducive to harmonious global democracy. Democracy can only be established where there is rule of law and in reality:

...international order is always order established by and for the most powerful states. In this respect global governance is merely a synonym for Western hegemony whilst international institutions remain the captives of dominant powers. States act strategically to encourage international governance, only where it enhances their autonomy or circumvents domestic scrutiny of sensitive issues, so generating a political imperative prejudicial to the democratization of global governance (McGrew, 2002, para 13).

For political realists then, transnational democracy is entirely implausible, given that it is unlikely that sovereign states would be willing to sacrifice autonomous governance for global democracy. “Transnational democracy remains, for realists, a signally utopian ideal” (McGrew, 2002, para 13), or as Keohane describes it “cosmopolitan democracy is a distant ideal, not a feasible option for our time” (2002, p. 20).

In any case, the problem of how to democratise global governance, particularly economic governance, raises questions of a magnitude so broad that they would be impossible to address here. Including concepts of democracy, transparency and accountability deficits in the mechanisms of global economic governance is in order to demonstrate that a human rights approach has become particularly relevant at this juncture. In the context of globalisation, transnational corporations and IFIs, the political avenues that would traditionally be used to lobby or curtail the behaviour of powerful agents have proved impotent, mostly because they do not exist, or at least they do not exist in a robust enough capacity to operate as a check or balance to the powerhouses of contemporary global economic governance. As it stands, “global economic forums are still too exclusive, unbalanced, slow, unaccountable or weak to enable formation of policies which facilitate improving the wellbeing of most people with maximum effectiveness” (Langmore & Fitzgerald, 2010, p. 46). In the absence of effective mechanisms of accountability and transparency, existing tools that can act as an effective substitute should be drawn upon, even if it is only until such time as the appropriate infrastructure needed to ensure accountability, transparency and democracy in these institutions can
be erected. The ICESCR is one such tool. It is useful, appropriate and valid, if only for the absence of anything else. In one sense, Munck’s suggestions, while constructive in the long run, simply emphasises the problem of the here and now. Mechanisms of accountability and transparency are inadequate and have been for some time. There is a democracy deficit in the mechanisms of global economic governance and has been for some time. For the purposes of this argument, however this pans out in the long-run, in the spirit of Keynes’s understanding of the long run, is largely irrelevant.

Civil Society

Globalisation has affected almost every imaginable facet of human experience and the construct of civil society is no exception. Just as international institutions regroup and reconfigure to respond to the pressures of a dynamically changing world, so too has civil society become more sophisticated, more efficient, better connected and better informed.

In earlier times, governance effectively came down to government, and civil society organisations operated almost entirely in relation to the state. However today’s world exhibits more polycentric governance, where sub state (local and provincial) and supra-state (regional and global) agencies exist alongside – and with some autonomy from – national states (Scholte, 2004, p. 214).

The constitution of civil society, its borders, impacts and significance, like everything else that has been globalised, defies absolute terms. Global civil society represents just one component of the intricate and explosive web of interconnectedness that shapes the modern world. For this reason it is best viewed:

...through the lens of global complexity – where global civil society is perceived as a domain contented and variegated by multiple axes of cause and effect, reciprocity and ambivalence, an outcome and effect of ‘global complexity’; the interaction between ‘networks’ and ‘fluids’ that characterise planetary systems of production, mobility and exchange (Chester, 2004, p.2).

Both conceptually and practically speaking, civil society seems to have entered a realm of perpetual expansion. Scholte conceives of civil society as a body that is constitutive of many sorts of actors including but not limited to:

...academic institutions, business forums, clan and kinship circles, consumer advocates, development cooperation initiatives, environmental movements, ethnic lobbies,
foundations, human rights promoters, labour unions, local community groups, relief organisations, peace movements, professional bodies, religious institutions, think tanks, women’s networks, youth associations and more (Scholte, 2001, p. 6).

Scholte imagines civil society to reach beyond the scope of only that which is formally organised or professionally administered and finds that it “exists whenever and wherever voluntary associations – of whatever kind – try deliberately to mould the governing rules of society” (Scholte, 2001, p. 6).

Scholte’s list of includable parties in the demographic seems particularly exhaustive, especially when compared with McGrew’s definition of civil society as:

... the global, associational revolution, expressed in the enormous expansion of NGO activity and transnational networks of advocacy groups, labour, professionals and religious associations amongst others, has created the infrastructure of a transnational civil society (McGrew, 2004, p. 210).

Whilst both definitions are satisfactory, for the purposes of this research it is sufficed to employ the term civil society in reference to all or any branches of the “dynamic non-governmental system of interconnected socio-economic institutions” (Chester, 2004, p. 4).

Ironically, Chester’s definition of civil society could easily be used as a substitute definition for the institutions of global economic governance. Certainly the dichotomy between the World Bank, the IMF and the WTO could be considered a “system of inter-connected socio-economic institutions” (Chester, 2004, p. 4). What these two systems of interconnectedness mirror to each other is an evolutionary capacity. In as much as the institutions of global governance are in a process of flux, clamouring to respond effectively to a rapidly changing world, so too are the networks and mobilisations of civil society, widening and broadening the ways in which they attempt to impact these institutions. This research considers that in this particular context, the role of civil society is tremendously important for a number of reasons.

The foremost represents a component of the problem of the democracy deficit in the institutions of economic governance in times of advanced globalisation. Where the development of authentic representation lags behind the galloping development of governing institutions, and where there is some collective public voice or participation, no matter how ad-hoc or unsatisfactory, it ought not to be easily dismissed. Parliaments have not dynamically sought to assume the role of guardian of the IMF Executive Board. In light if this lassitude, the role of civil society and activist organisations in subsuming the role of citizen watchdog in their place is important. As the jurisdiction of the IMF and the World Bank has expanded, and the often calamitous results of their actions have become difficult to ignore, many lobby and advocacy groups have united in an attempt to impact the IMF and the World Bank directly. Their campaigns have not been limited to the issues of adjustment or debt, but
have encompassed a broad spectrum of issues from labour rights to ecocide. Certain themes however, have re-occurred consistently, particularly poverty, debt relief and the process of decision-making at the IMF (Eggers, Florini & Woods, 2005, p. 1-28).

However imperfect, the efforts of civil society to impact IFIs have not all been in vain. Certainly the IMF is more transparent than it used to be. It has been forced to at least acknowledge the issues that campaigners have so assiduously rallied against. Despite reports and initiatives that make references to issues of poverty reduction and human development, they have ultimately worn criticisms of crowd-pleasing and posturing. Nor have they taken sufficient steps to address the systemic transparency, accountability and democracy deficit which permeates their infrastructure and processes. This is likely a reflection of the reality that activist and campaign groups are not adequately resourced or mandated to demand deep infrastructural change. As Eggers et-al have argued, “with a few notable exceptions, non-governmental organisations lack the sustained funding and expertise needed for concerted campaigns on Fund issues” (2005, p.44)

This research also is mindful of the problematic nature of substituting civil society mobilisations for legitimate public agency. In an entirely imperfect context, civil society fulfils only the better-than-nothing option, a poor stand-in for robust participatory democracy. Nor are the problems with civil society simply ones of mandate or legitimacy. Civil society groups are forced frequently to compete for attention from the World Bank and IMF, and the level to which they succeed in that endeavour is usually heavily dependent upon their resources.

In this regard, which voices to include or exclude in the discourse is often decided haphazardly, or relies upon the IMF itself to act as a gatekeeper, selecting those with whom it would prefer to consult, and inevitably the largest, best resourced and best-located NGOs end up with disproportionate allocation of finite attention. This magnifies the voice of Northern citizens within the IMF, since they have more chance to influence both their powerful government representatives in the institution as well as in their home grown NGOs, not to mention their parliaments (Eggers, Florini & Woods, 2005, p. 1-28).

In this regard, and with reference to NGOs, Keohane (2002) notes that:

...their claims to legitimate voice over policy are based on the disadvantaged people for whom they claim to speak, and on the abstract principals that they espouse. But they are internally accountable to wealthy, relatively public spirited people in the United States and other rich countries, who do not experience the results of their actions. Hence there is a danger that they will engage in symbolic politics, satisfying to their internal constituencies but unresponsive to the real needs of the people whom they claim to serve (p. 23).

For these reasons, NGOs can never claim the same legitimacy as democratically elected parliaments
as “in democracies, parliamentarians channel and balance the sometimes competing interests of various elements of civil society” (Eggers, Florini & Woods, 2005, p. 22).

Perhaps the most glaring disparity between parliamentarians and civil society agents is that parliamentarians are held to account, primarily via elections but also by each other, by parliamentary rules and processes, political parties, and by the other arms of government. On the other hand, NGOs have a funding imperative that must be satisfied, and are therefore must court media favour and public support. There is also the possibility that gains made in improving accountability mechanisms at the IMF or World Bank could be lost, if they then ignore local parliaments in favour of consulting with NGOs. “This risk is heightened by the Funds new propensity to consult at local levels with non-governmental groups in efforts to broaden support for agreements it forges directly with executive branch agencies” (Eggers, Florini & Woods, 2005, p. 23). Nevertheless, pointing out that civil society groups cannot operate as a replacement for participative democracy is not to downgrade their involvement in the political process, but rather to point out the limits to the legitimacy that their involvement represents, or as Eggers et-al argue, “such public engagement is a crucial element of good governance, whether at a national or global level, but it cannot be the sole mechanism for channelling citizen voices” (Eggers, Florini, & Woods, 2003, p. 23).

However real the dangers of substituting the voice of civil society for the voice of the demos are in the discourse, the role of civil society in this debate is utterly indispensable. Civil society mobilisations on the debt issue have been unparalleled and this is important. Debt cancellation has been the central focus of a long and sustained movement, not only as an issue unto itself, but as part of a broader and “quite ferocious contest over people’s interpretations and understandings of the supposed benefits of neoliberal economic policies” (Ayres, 2004, p. 15). Birdsall and Williamson touted the J2K campaign as “by far the most successful industrial country movement aimed at combating world poverty for many years, perhaps all recorded history” (Birdsall & Williamson, 2002, p. 1). The campaign to end problem debt in the South became a unifying issue, straddling borders and cultures, and drawing in a plethora of activists, celebrities, politicians, religious figure-heads, academics and ordinary citizens. The pinnacle achievement of the campaign was to enlist the political support of allies in the U.S and U.K governments, making it difficult for other governments and creditors to openly oppose debt relief. For the purposes of this research, it is important to briefly signpost the trajectory of the campaign in order to anchor a call for the re-appropriation of funds intended for debt servicing into the context of increasingly animated civil society mobilisations surrounding not only problem debt in the global South, but a broader questioning of the limitations of global governance and the conduct of the IMF and the World Bank in this regard. This goes to the argument that invoking human rights mechanisms is appropriate where no other legitimate recourse to accountability exists, and where civil society has mobilised extensively on an issue for which they have been rewarded with lacklustre and insufficient progress.
Civil Society and Debt

The first of the developing regions bold enough to embark on a sustained movement towards debt cancellation was Latin America, the continent most devastated by the debt crisis. Between 1982 and 1990 “numerous Latin American trade union and peasant farmer organisations tried to promote continental solidarity. Cuba played an active role in trying to federate Latin American countries in favour of stopping debt repayments” (Millet & Toussaint, 2004, p. 164). Unfolding in tandem with this, development organisations in the North began to assemble and exert collective pressure. The Association International Des Techniciens, Experts et Chercheurs was formed in 1983 in Paris and the Committee for the Abolition of Third World Debt (CADTM) in Belgium from the early 1990’s on. During this same period, Martin Dent, a Professor at Keele University with a working biblical knowledge and a special interest in developing country debt, envisaged a “Jubilee Year” (Dent & Peters, 1999, p. 18). The idea rapidly gathered momentum, attracting U.K charities such as Christian Aid and the World Development Movement. The J2K campaign was officially launched in April 1996 with the unqualified support of both the Protestant and Catholic churches. The movement flourished, galvanising literally millions across the globe to action.

In Johannesburg in 1999, Jubilee South was conceived as a brother organisation of the J2K initiative. Based in the Philippines it consists of a network of debt campaigns, social movements, people’s organisations, communities, NGOs and political formations across 50 countries in Latin America, the Caribbean, Africa and the Asia Pacific. Jubilee South has the same principal objectives as J2K, however its focus is to mobilise the anti-debt movement in the South and bring it into a strategically co-operative relationship with the J2K movement (Dent & Peters, 1999, p. 14).

From the mid-1990’s onwards, the movement in the South began to break into its stride. Protest mobilisations were staged in Peru (1999), Ecuador (1999 & 2001) Brazil (2000) and South Africa (1999 & 2000). The durability and scope of the campaign for debt cancellation is widely attributed to its capacity to attract support from across the spectrum of the social landscape, “not limited to networks dealing specifically with the question of debt. There is a constant synergy with networks active on issues relating to the financial markets, the IFI or the WTO” (Millet & Toussaint, 2004, p. 165). Organisations everywhere began to weave debt into the fabric of their agendas. The Association for the Taxation of Financial Transactions to Aid Citizens (ATTAC) whose primary objective is to promote a tax on foreign exchange transactions, developed their platforms to include a position that advocates debt cancellation as complementary to their core aims. The Dette et Development campaign in France sought to mobilise a support network within NGO’s and trade unions. In 1999 in
Spain, the Citizens Network for the Abolition of External Debt (RCADE) was founded and organised a referendum for the cancellation of the debt in which over a million people voted on 12 March 2000. The American organisation ‘50 years in Enough’, the Bretton Woods Project (UK) or Agir Ici (France) are further examples of organisations that broadened the range of their advocacy efforts to include a call for debt cancellation, given that “the IMF/World Bank’s adjustment plans which they are fighting are the solutions these institutions purpose for the over-indebtedness of the Least Developed Countries” (Millet & Toussaint, 2004, p. 165).

By the late 1990s, the campaign to end problem debt in the global South had achieved planetary recognition.

Activists had successfully developed a contentious, increasingly transnationally accepted master collective action frame to challenge the prevailing neoliberal orthodoxy as it existed in such institutions as the World Trade Organisations (WTO), The International Monetary Fund (IMF) and regional trade agreements such as the North American Free Trade Agreement (NAFTA) (Ayres, 2004, p. 14).

Such success is remarkable, especially considering the formidable nature of the enemy. The campaign proved capable of enduring, despite facing:

...two especially daunting challenges, a powerful and wealthy set of interests in those states, corporations and other social actors supportive of neoliberal policies; and the diversity of different regions, states, languages, cultures and popular experiences affected by neoliberal globalisation (Ayres, 2004, p. 14).

In May 1998, 70 000 individuals united in the largest demonstration ever staged across the U.K. The protest involved a human chain surrounding the G8 summit in Birmingham. The Jubilee petition that was handed over to then UN Secretary General Kofi Annan in 2000 had:

...over 24 million signatures and had been inscribed in the Guinness Book of World Records – not once, but twice. In 1997 it was named the most international petition ever, with signatures from over 166 countries, and circulated in over 20 languages. In 2000 it broke the record as the world’s biggest petition (Williams, 2008, p. 13).

A 70 000 strong demonstration coupled with the largest petition the world had ever seen left very little room to dispute the strength of popular opinion. In the face if such a groundswell of support, it would be utterly remiss of governments not to respond.

Armed with only a pen, paper, and answers to frequently asked questions, the petition was perhaps the campaigns strongest testament to the power of active citizens to make a difference in the world. There is no doubt that governments took notice (Williams, 2008, p.
The success of the campaign in mobilising public support can be attributed to a number of converging factors; its ability to establish a global network, its timing, its popular support, and its host of celebrity endorsements. Everyone from the Pope, to Bob Geldof, Jeffery Sachs and Pat Robinson publicly declared their commitment to its success. Singer and activist Bono, of U2 stated that:

...we had to explain the campaign in terms of self-interest for the west [...] Misery causes conflict, war is expensive. Preventative measures are cheaper in the end. And cancelling debt is sound economics when debt is bad and the debtor is bankrupt. What every moneyman knows; if your horse falls down and dies, we suggest you dismount (Williams, 2008, p. 13).

This 1998 protest in Birmingham set the wheel in motion for a string of ‘anti-neoliberal’ protests to unfold globally. Particularly poignant were the 1999 protests in Seattle, given that “the protests took place in the United States, they represented an important milestone in such efforts” (Ayres, 2004, p. 21). Such protests acted as an anti-globalisation umbrella under which many issues jostled for political attention, amongst which debt cancellation proved a regular contender. What the Seattle protests at WTO meetings made it impossible to ignore was the “widening discontent both outside and within the US over its official policy embrace of neoliberal principals” (Ayres, 2004, p. 23). In reality, the campaign to cancel problem debt in the global South synchronised by happy accident with a broader questioning of the infallibility of the modern economic policy practice of neoliberalism, one that has only continued to grow stronger and more vocal since the financial crisis. The vigour with which the global community rose up in outrage against developing country debt in the 1990’s and early 2000’s was also a reflection of an adverse reaction to globalisation from its emerging discontents.

Seattle became a catalyst for a global outbreak of protests, as increasingly frequent and popular demonstrations were staged in Washington DC, Australia, the Czech Republic, Thailand, Canada and Italy. The protesters were described as:

...a motley group, variously armed with pamphlets and policy briefs, hurling bricks through store windows, dressed as endangered species, or wielding banners, the protestors united around a common message; namely, that national economic policies were increasingly being determined by a supranational organisation that was unaccountable to formal, national democratic processes. The policies promoted by the WTO, they claimed, eroded the power of national governments, destroyed the environment, and favoured the interests of multi-national corporations (Babb & Burina, 2005, p 61).

For the most part the objective of these protests was to target what were perceived of as ‘neoliberal’ summits and institutions:

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On the eve of the Genoa, Italy G8 protest, the politicians, business leaders and media outlets were paying increased attention to the concerns of the movement, as the ‘Washington Consensus’ that had sustained the neoliberal globalisation framework appeared to be cracking. Suddenly the World Bank was professing an interest in sustainable development projects, international institutions were becoming more open to NGO participation, politicians were entertaining thoughts of much more dramatic debt relief for impoverished states as well as taxes on global currency speculation, whole debates over neoliberalism become much more common editorial page fare (Ayres, 2008, p. 24).

The movement reached peak levels of public support, media exposure and political recognition due perhaps to the often violent nature of demonstrations, which was unusual at the time. Unfortunately, since the financial crisis, widespread and frequently violent protest against the unencumbered roll out of free market capitalism has become commonplace, throughout Europe and Latin America in particular, and cropping up in regions as diverse as Israel, South Korea and Egypt.

Post 2000, the J2K campaign was re-packaged and re-launched as the Jubilee Debt campaign in March 2001. Whilst failing to recapture the extraordinary public support of the 70 000 strong protest in Birmingham, it has achieved successes in its own right, including the “Queens Jubilee petition in 2002-2003, thousands of people attending the meeting marking five years on from Birmingham in May 2003, and in 2004 support for ‘World Debt Day’” (Williams, 2004, p. 13).

During the UK Presidency of the G8, campaigners again rallied to the cause, hoping to build upon the legacy of J2K by formulating the Make Poverty History (MPH) campaign. The MPH campaign was not exclusively focussed on debt cancellation but included this issue as an important component of a broader-sweeping economic justice campaign, promoting trade justice and increased and better foreign aid. Like J2K, MPH re-enforced the importance of ground-up activism, was buoyed by broad media support and littered with high profile celebrity spokespeople. Simultaneously, similar campaigns materialised across the globe, most notably the One Campaign in the US. The public proved malleable and responsive to campaign efforts with 250 000 people rallying to support its cause in Edinburgh. The media coverage of Live8 concerts was broadcast to the largest audience in history. Succumbing to intense international pressure, the G8 announced that they intended to erase a sizable portion of the multilateral debt stock provided that countries reach a designated completion point in the HIPC process. Such promises amounted to an impressive $50 billion in potential debt cancellation, a sum to be divvied up between forty eligible countries (Williams, 2004, p. 14). This deal was not without its frustrations however. The G8 proved inflexible regarding the amount of countries to which they were willing to extend debt cancellation, and many of the participating institutions later negated the cost of this debt relief through diminished future aid allocation. Nevertheless the deal did allow for the provision of some debt relief for some countries that had completed the HIPC
process, and perhaps more importantly, acknowledged finally the ineffectiveness of debt sustainability thresholds used previously.

What is staggering on reflection is that, despite such a remarkable demonstration of public support for a campaign which had shown an extraordinary commitment to securing a positive result, the outcome should be so discouraging. The G8 has been accused of making empty promises to reduce the debt burden and allowing for the dissemination of deliberately misleading information. This is evidenced by the fact that, “since 1996, when developing country governments first started promising a sustainable exit from the debt crisis’ just 20 countries have received significant debt relief under the HIPC initiative. The rest are still waiting and still paying” (Christian Aid, 2007, p. 6)

The unmistakable call for the cancellation of problem debt in the global South has rung out to the four corners of the globe repeatedly and without cessation for over three decades. This significance of this is that it emphasises the illegitimate nature of the demand made by IFIs that poor countries continue to service unsustainable debt. Refusal to pay should no longer be seen as a radical, but rather a rational response to an untenable situation whereby institutions of un-mandated, unaccountable power have failed repeatedly to respond to the legitimate demands of a committee and mobilised civil society.

In 2007 Christian Aid called for the immediate and transparent arbitration of illegitimate or odious debt, in a manner that properly reflects the dubious role of lenders which underpins its accumulation. In the absence of this, Christian Aid recommended that governments of poor countries repudiate the debt (Christian Aid, 2007). The resolve of campaign groups such as Christian Aid has become increasingly uncompromising. Historically the Christian Aid agenda has been defined by an appeal for debt cancellation, however the lacklustre gains of significant campaigning have compelled them to reconsider their position, arguing that promises are continuously broken, debt continues to grow, and there is now no other alternative. After thirty years of campaigning, many optimistic initiatives and many more disappointing results, activist groups feel compelled to respond with tougher demands and a bolder modus operandi; a firmer stance that is an indication of the mood of jadedness that has begun to imbed in civil society and activist communities. A study conducted in 2003 by the Democratic Audit of the United Kingdom (UK) revealed that:

… the public do not believe they possess the power they want through conventional politics and are therefore becoming increasingly sympathetic to direct action. Such observations add weight to proposals emphasising the need to reassess fundamental questions about the nature of the state and governance in a globalising world and to those calling for a rethinking of democratic structures and processes (Chester, 2004, p. 325).

In a campaign of this size, the post-mortem has naturally revealed plenty of blind-spots. Social and
political analysts such as Hodkinson (2005), Hertz (2005) and Frith (2005) have assessed the failings of the MPH campaign, drawing interesting conclusions. For Frith, the issue was one of celebrity presences detracting from the complexity of the real issues.

For Hertz, 'We achieved next to nothing' because 'the campaign's design allowed it to accept inappropriate markers for success that were never real proxies for justice, empowerment or accountability, and also because its demands were never in fact audacious enough'. Hodkinson was even more critical, 'By being too dependent on lobbying, celebrities and the media, by failing to give ownership of the campaign to southern hemisphere social movements, by watering down the demands agreed by grassroots movements at the World Social Forum, and by legitimizing the G8 summit, the campaign was doomed from the start. Ten out of 10 on aid, eight out of 10 on debt? More like G8, Africa nil (Bond, 2006. p. 137).

More recent efforts of civil society agents have begun to push out from political activism into the legal arena, most notably efforts by CADTM and Jubilee South. CADTM declared in a series of the organisational meeting in the Hague the September 2005 that “we pledge to redouble our efforts to force changes in South government policies that should lead to the repudiation of debts claimed from our countries. We view the realization of debt audits as fundamental steps in that regard” (CADTM, 2006, p. 13). Keohane argues finally that “in the long term, the only remedy for this situation is that networks of connection, and empathy, develop on a global basis so that democratic publics in powerful states demand that the interests of people in weaker states be taken into account” (Keohane, 2002, p. 31).

Concluding Thoughts on Democracy, Accountability and Transparency

This research project has been premised on the assumption that democracy in the institutions of global governance is imperative. Furthermore, I have argued that it is not sufficient to consider these institutions democratic simply because they have evolved organically out of the infrastructure of democratic parliaments. Globalisation has too radically changed the landscape for this to be tenable.

The most basic principles of government for the people, by the people and of the people, are mandate and accountability realised through the electoral process. Where a government (or a governing body) no longer feels compelled to justify its actions to the people, or exiles them from meaningful participation in the political process, core principles of democracy are violated. In a national system, participation in sculpting the policy agenda via the electoral process is meaningful.
an increasingly globalised world, political processes, and the infrastructure of participation are vague and haphazard. Protest can be entirely ignored and there is no electoral means by which to call authorities to account. Consciously or otherwise, IFIs and TNCs are benefiting from the liberty this loophole affords.

The argument of this research is more complex than a straight-forward interpretation of a human right covenant as a legal instrument, hence the need to investigate both the political and economic components of problem debt. One could simplify the argument significantly by limiting it to an observation that the requirement to service problem debt may force states to violate core obligations to the ICESCR. However where this logic is applied it must be applied uniformly, and in that case it must also be conceded that any number of things drive signature parties to violate core obligations to the ICESCR, and this observation is not terrifically useful. I argue that the ICESCR is a viable tool for the re-appropriation of funds intended for debt servicing at this juncture in particular, because the context and history of unsustainable debt in developing economies has made it so. The international institutions charged with the responsibility of resolving this issue have failed to do so and do not feel bound to respond to the demands of civil society due to their inherent transparency, accountability and democracy deficit and this is unacceptable.
CHAPTER FIVE: THE IDEA OF HUMAN RIGHTS

So I can't show you how, exactly, health care is a basic human right. But what I can argue is that no one should have to die of a disease that is treatable


In a lecture given in 2007, British Pakistani writer and journalist Tariq Ali lamented the increasing role of the market as the arbiter of the social arrangements within which the human condition is experienced. Ali noted that:

We have a whole new architecture of the neo-liberal world in which human rights plays some part, or human rights as they conceive it plays some part ideologically, but the basic foundations of this world are economic. It is the untrammeled rule of capital proceeding to all parts of the globe which is the central priority, and everything else, including rights, including needs, are subordinated to that (Ali, 2007).

One of the central concerns of this research is to outline and grapple with that problem. It is plain that both as fact and as discourse ‘the market’ has become that to which all other things are subservient. Over time, both allies of, and adversaries to, the market have been forced to negotiate their positions relative to market priorities. Across the spectrum, ideologies and institutions have survived only in consideration of their compatibility with market values. The final result has been the supremacy of the market as the arbiter of value.

Given that the premise of this research is that an approach that places human person, their agency and welfare, and by extension their environment, at the centrepiece of social arrangements, ought to be considered, it is needful to ask what role (if any) can a discourse of human rights play in asserting itself against this paradigm in general, and in addressing the debt problem in particular?

The reality of the practice of human rights in its current incarnation gives one pause to consider such an enterprise ambitious, but there are ways to conceive of it. Beitz (2009) for one, offers us an account of human rights as ‘an emergent practice’ contending that the human rights practice is something substantially more than a legal framework, but also a tool which can be used to shape and guide policy. This view is supported also by the work of Ignatieff (2003) who argues that human rights practice is the “language of deliberation” (p. 95).

This research draws on the conceptions of primarily Beitz (2009), but also Pogge (2002, 2007) and Ignatieff (2003) in parts, to argue that the human rights practice provides a useful anchorage to the complex debate about how to set limits on the most rebarbative demands of the market.
Traditionally international human rights law has been concerned with the conduct of governments towards their own citizens, and obligations for human rights provision and protection primarily incumbent upon states, however in the era of globalisation this has become an infinitely more complex proposition. When states seek to transpose or reflect human rights obligations in national law they are required to impose duties on persons subject to their jurisdiction, yet increasingly agents who would inflict human rights violations (or impede the states duty to fulfil them) are outside the jurisdiction of the state. The current framework, imperfect to begin with, has been only further fractured by the demands and pressures born out of the hubris of a dynamically globalised world, as the actions of non-state actors, IFIs and TNCs increasingly impact the social and economic conditions of citizens of nation states. Gradually, the scope of human rights law is being extended to include non-state actors, although specific legal principles for holding them to account remains a work in progress, a problem increasingly recognised as one of the most urgent issues of contemporary human rights law.

The ICESCR in particular is intended to grant rights to people whilst simultaneously imposing obligations on duty-holders. Not only do poor countries have the right to work towards poverty eradication, but if they are signature parties to the Covenant they are obliged to. Furthermore, governments of developed countries, who are signature parties to the Covenant, are obliged to respect any efforts initiated by governments of poor countries towards these ends. Rights and obligations however, are emptied of meaning where they are not re-enforced by a structure of accountability. It is this incomplete system of accountability that is the reason economic and social rights are frequently dismissed as impracticable. An effective human rights approach to poverty would require that all duty holders, including non-state actors and international organisations, be made accountable for their conduct. The CESCR clarifies what the ideal mechanism of legal accountability for all state parties ought to look like, describing it as “accessible, transparent and effective” (CESCR, General Comment No. 9: The domestic application of the Covenant, 3 December 1998, E/C.12/1998/24.) Whilst such a mechanism does not yet exist, this research nevertheless, contends that an underdeveloped international system of accountability does not present an insurmountable obstacle to a state’s efforts to hold themselves to account.

As with all human rights treaties, the primary responsibility to ensure that citizens enjoy rights and protections rests with the individual countries party to it. By signing the treaty, countries accept that they have obligations to apply its provisions and to submit themselves to international supervision in that regard. Whilst it is difficult to imagine a state successfully holding a foreign government or IFI to account, it is far less fantastic a proposition that states be accountable to themselves for the fulfilment of their own obligations, provided that external parties refrain from interrupting that endeavour. Whilst the mechanisms for demanding accountability from non-state actors remain imperfect, at a minimum, non-state actors ought not to be allowed to intervene in a state’s attempt
to better satisfy their own human rights obligations, particularly where a state is clear about the nature of its actions. Obstructing a state’s efforts in such a way would constitute a significant affront to international law and the human rights normative framework.

Putting aside for one moment the enforceability of human rights standards with regard to international organisations and non-state actors, this research is concerned primarily with how the human rights practice can be interpreted to bring resolution to the problem of unsustainable debt. The consistent failure of global actors to address the increasing tensions between the discourses of sovereign debt and human rights lies at the heart of this problem. Failure to reconcile the pull between the imperatives of these two distinct legal practices underpins all debates about the nature of debt, poverty and human rights. Raffer notes that:

In a situation of a debt overhang the right of creditors to payments collides with the principal recognised generally (not only in the case of loans) by all civilized legal systems, that no-one must be forced to fulfil contracts if that leads to inhumane distress, endangers one’s life or health or violates human dignity (2011 p. 80).

It is not Raffer’s contention that where debt servicing obligations facilitate human rights violations, debt is automatically rendered illegitimate, but rather that enforcing the legitimacy of the debt is secondary to the obligation to protect human rights. Raffer argues that although the claims of creditors in such a situation “are recognised as legitimate, insolvency exempts resources from being seized by bona fide creditors. Human rights, human dignity and the debtor’s ‘fresh start’ enjoy unconditional priority” (2011, p. 80). Raffer contends that this has always been a feature of the creditor and debtor relationship (certainly up until the 1970s) noting that:

...unless they happen to be Southern countries, debtors cannot be forced to starve themselves or their children to be able to pay. Human rights and human dignity are given unconditional priority over repayment, even though insolvency only deals with claims based on a solid and proper legal foundation. A fortiori this is valid for less well-founded claims. The sanctity of contracts, often rightly referred to, is always overridden by human rights (debtor protection) (2011, p. 80).

So if this has historically been true, why have countries of the South been excluded from this principle? The human rights component of this research seeks to rectify this anomaly by appealing to a range of philosophical and ‘practical’ arguments.

Let me start with the work of Beitz.

Technically speaking, the ICESCR articulates rights that must be protected and provided for. Resource constraints that result from the requirement of a government to service unsustainable debt represent
an obstacle to the capacity of a state to discharge its duty in this regard. New developments in the field of measuring and quantifying economic and social rights violations mean it is now possible to show where a right is being violated and how a violation might be prevented where remedy is appropriately resourced. The implication of this is that it can be shown how funds directed away from debt-serving and into the fulfilment of core obligations redress human rights violations. This research makes the case that governments of poor countries prevented from meeting core obligations to the Covenant as a result of debt servicing are justified in re-appropriating these funds and channelling them into meeting economic and social rights minimum standards.

Whilst this argument is reasonably clear cut, it is made in the context of a broader philosophical debate. Economic and social rights are too often dismissed because practical consideration of them invariably invites a conversation about global poverty and inequality which typically becomes overwhelming. They are frequently accused of ascribing a utopian ideal of what the world ought to look like without detailed explanation of how it can be made so, or as Beitz contends:

...considered in relation to ordinary rights, human rights leave more to be worked out at the point of application. One can imagine a model of human rights that brings them closer to the idea of a claim-right, but such a model would not be faithful to a substantial portion of contemporary human rights doctrine (Beitz, 2009, p. 119).

It is in working through this difficulty that the Beitz approach proves instructive. Beitz’s conception of human rights as a public political practice describes the way in which human rights can become embedded into policy and doctrine in a practicable way, capable of addressing more expansive and complex problems of global poverty and inequality.

Therefore I argue that:

1) where governments of poor countries are prioritising the debt-servicing requirement over the satisfaction of core obligations to the ICESCR they are in violation of it;

and

2) The Beitz approach, which conceives of human rights as a public political doctrine is instructive in shaping a practical framework by which problems of global poverty and inequality can be addressed.

This two pronged approach is designed to show not only how a claim to a violation can be made in a technical sense but how one might, as part of a broader public political program, imagine it can be addressed over the longer term. This section looks firstly at a Bietz approach to human rights, secondly the human rights normative framework and the ICESCR in particular, thirdly the possibility of invoking it, and lastly at poverty and inequality as human rights issues.
Beitz on Human Rights

This research draws upon Beitz’s (2009) conception of human rights as a practically useful apparatus of public political doctrine. This idea proves a fine accompaniment to the purely legalistic claim to a rights violation, allowing as it does for a more expansive interpretation of human rights as a negotiable feature of contemporary international political discourse. Although this research contends that the imperative to service unsustainable debt does constitute a rights violation in of itself, the argument is better discharged when this narrow interpretation is placed in the broader context offered by Beitz, which allows for the human rights doctrine to reach beyond its legal foundations and to be conceived of as an emergent public political practice.

Beitz defines human rights as a global practice that seeks to secure the protection of the individual (or groups of individuals) from urgent threats to their most vital needs. For the most part these urgent threats are presumed to result from the actions or omissions of governments. Interestingly Beitz includes the failure of governments “to regulate the conduct of other agents” (2009, p. 197) in this definition, a conception which locks step with the argument of this research with respect to the demands of the IFIs and other international non-state actors. According to Beitz, the primary method via which the human rights practice seeks to achieve its ends is to expose the domestic actions of governments to international scrutiny and to some extent jurisdiction, or as Beitz describes it, human rights violations as perpetrated by domestic governments become matters of “legitimate international concern” (Beitz, 2009, p. 197). Beitz conceives of human rights as an apparatus of dissent in an international political order that strives to accommodate autonomous states with competing interests. Where there is no global authority with the mandate or machinery to supervise governments, administer co-operation or regulate conflict, a system of international concern occurs in an ad-hoc and arbitrary manner, whereby “various forms of political action (are) carried out by whichever agents are capable and appropriately placed and have sufficient reasons to action” (Beitz, 2009, p. 197). Given that the possibility of enforcing such norms and standards in a consistent and universal way is not self-evident, Beitz describes the practice as “emergent” (Beitz, 2009, p. 197).

Whilst there is significant consensus on the moral credibility of the doctrine and certainly a scope for international agents to act in an interventionist capacity in response to violations, generally speaking the practical possibility of enforcing human rights remains limited and discriminate, a reality that Beitz considers exigent, particularly as “it may tend to undermine the authority of human rights principals themselves and such international means of enforcement as we possess” (Beitz, 2009, p. 208).
Building on the concept of human rights as an emergent practice, Beitz proposes a schema that attempts to properly consider the various elements that ought to be reflected in the substance of a public political doctrine. These considerations are defined with respect to the interests that the practice seeks to protect, how states might consider protecting those interests domestically and the shape and scope of action-giving reasons that would propel violations into the remit of international concern. Beitz contends that the reasons that agents can give for action when faced with a human rights violation are wide-ranging and subject to a number of external considerations, such as the significance of the threatened interests, who is responsible for the violation, and the relationships between all parties involved, including those whom have sustained the violation, the intervening agents, and the perpetrators of the violation. Further complicating this, the possibilities for action are usually equally diverse, “ranging from the legal to the political and from the coercive to the persuasive and consensual” (Beitz, 2009, p. 198).

The heterogeneous nature of these considerations makes for a complex public political practice. In spite of this Beitz resists the temptation to backslide into more simplified accounts of the philosophical underpinnings of the practice, contending that human rights doctrine no more represents a moral minimum than it does a universal value which would render it a practice applicable to all persons under all circumstances. For Beitz, human rights represent “critical public standards distinguished by their special role as elements of the global normative order we inhabit today” (Beitz, 2009, p. 198).

One of the appeals of the Beitz schema is that it is designed to be functional within the international context as it currently operates. In this respect Beitz has achieved his objective of replacing “conceptions of human rights that invite scepticism with one that is more sympathetic to the aims and conduct of the existing practice without sacrificing a capacity to criticize it” (Beitz, 2009, p. 199). One of the scepticisms that Beitz considers particularly grave is the manner in which the human rights framework has been worked to accommodate thick and dividing roots of power distribution in a global context. Beitz contends that:

…the significance of this fact can be obscured by an excessive concentration on the legal instruments and institutions of the human rights system, which convey an impression of institutions of greater autonomy from the political context than in fact exists (Beitz, 2010, p. 202).

Partially as a response to this, Beitz seeks to engage the practice where it actually unfolds rather than immerse himself in the labyrinth of a legalistic discourse disengaged from practical realities. Accepting that global power imbalances have a significant impact on the manner in which the human rights doctrine becomes manifest seems only natural, but this does not necessarily mean that human rights are only an operational tool used by powerful forces to protect and progress their interests.
Beitz contends that there is at least a possibility that the human rights regime serves to “legitimate a
global political-economic structure that generates forces antipathetic to the values human rights are
supposed to protect,” (Beitz, 2010, p. 202) but even from a realist’s perspective this seems a little
contrived. This research concurs with Beitz on this question; that whilst the human rights practice
may be flawed and frequently likely to reflect the geo-political agendas of powerful agents, it is too
cynical to imagine it is wholly or uniquely a mechanism for their progression.

Nevertheless, Beitz’s acknowledgement that the practice of human rights is impacted by the reality
that it is both a function of, and subject to, the dynamics of hegemonic global political and economic
power arrangements, renders his conception of human rights as a political practice particularly
relevant to this research. Beitz does not infer that there is necessarily a conspiratorial undertone to
contemporary human rights doctrine, but concedes the likelihood that:

...actors seek to advance their interests by proposing advantageous interpretations of legal
rules and principals for the resolution of conflicts. In the presence of politically significant
inequalities of power, states have substantially greater influence in the international
institutions and practices in which normative conflict takes place will tend to prevail, and by
doing so will shape the prevalent understandings of the law. Law is thereby bent to the
advantage of strong powers (Beitz, 2009, p. 211).

Towards these ends:

...the doctrine and international machinery of human rights tend to be used as instruments
of domination by the strong and predominantly Western states that were its principal
authors. The practice, intended to correct for pathologies of the states system, is itself
pathological (Beitz, 2009, p. 203).

It is one of the arguments of this research that when less powerful states engage the international
human rights doctrine in a robust way, such as is advocated for in this thesis, this imbalance can begin
to migrate towards a rebalance.

In a sense, it is in response to a consideration of these very criticisms of the human rights doctrine,
that Beitz is able to assemble his framework. Readily acknowledging that “the discourse and practice
of human rights can also evoke a disabling scepticism, even amongst those who admire its motivating
ideas”, (Beitz, 2009, p. 2) Beitz contends that it is engaging with these scepticisms that one is able to
construct a concept of human rights that is both philosophically sound and practically useful. Beitz
finds that it is precisely because there is a multiplicity of reasons that can claim to bring human rights
violations into the realm of international concern that the practice must become one of practical
reasoning. The normative content of human rights is in many respects pliable and it is this
characteristic that allows Beitz to conceive of it as a political practice. There is room within the
practice for latitude, innovation and negotiation; to envisage it as a protective tool that governments can use to shield themselves from the forces of rapid globalisation. The human rights normative framework is unique in that it operates within “a global discursive community, whose members recognise the practice’s norms as reason-giving and use them in deliberating and arguing about how to act” (Beitz, 2009, p. 8). For this reason Beitz argues that “it is not only an inevitable but also a functionally significant aspect of the practice of human rights that its norms serve as much to frame disagreement as agreement” (Beitz, 2009, p. 9).

At first glance, capitalising on the flexibility of the human rights framework might appear problematic. It seems unwise to exalt the unstable elements of a practice where the practice is already fragile, after all, it is not an advanced legal tradition and therefore does not enjoy the attributes of that status. There is not necessarily broad consensus about what appropriate action is where agents have failed to comply with the norms of the practice, which in a developed legal practice have been universally agreed upon and become imbedded over time. As Beitz points out however:

...human rights practice is not a mature social practice. There is disagreement about all its main elements – for example, about the content of its norms, the eligible means for their application and enforcement, the distribution of responsibilities to support them and the weight to be accorded to considerations about human rights when they come into conflict with other values (Beitz, 2009, p. 10).

Beitz interprets this quality of the human rights practice however, as one of its most promising characteristics; that there is possibility within the practice for vociferous elucidation is perhaps one of its most exciting features, that indeed “the evolution of human rights doctrine might be regarded as integral to the larger normative practice, a feature that could be important in forming an adequate grasp of its point” (Beitz, 2009, p. 31).

Certainly it is fair to say that the practice has in some respects failed the greatest ambitions of its original crafters. As Ignatieff points out, “as its juridical, advocacy, and enforcement revolutions have dramatically raised expectations, it is unsurprising that the reality of human rights practice should disappoint” (Ignatieff, 2003, p. 17). It is probable that the first designers aspired to some form of international judicial capacity whereby the propensity to adjudicate between states and penalise offenders would be possible. This has not proved straightforward however, and thus far accountability and enforcement mechanisms are limited and generally ineffective. By and large accountability within the human rights normative framework consists of self-reporting, international observation, and the supposed constraints imposed by the threat of reputational damage. For the purposes of this research, this level of accountability is likely sufficient. In re-appropriating funds intended for debt servicing, governments of poor countries can be seen to be holding themselves to account, relying on the threat of reputational damage to deter any third party from intervening in
that action. This places responsibility for the human rights practice back on the shoulders of those who were originally intended to assume it; domestic governments. The primary responsibility for compliance with and protection of human rights norms and standards will always fall to domestic governments, a responsibility that only becomes incumbent on international actors where domestic governments have failed in their duty. In this way, domestic governments of sovereign nations can reaffirm their agency with regard to human rights. As Beitz notes:

In a world lacking institutions capable of determining and enforcing responsibilities, it must be left to individual agents, alone or in coalitions, to recognise their eligibility and the reasons that apply to them. Agents often may have to decide how and when to act without knowledge or assurance about the plans of others. There are analogues of the familiar problems associated with providing public goods under anarchy. This means that judgements about responsibilities to act will have to be pragmatic. But this fact does nothing to reduce or cancel the force of the reason to act (Beitz, 2009, p. 174).

Beitz considers this key to understanding human rights as a public political practice; that human rights become functional in the domestic dialogue amongst domestic actors and are then translated naturally into the international arena. According to Beitz’s interpretation, human rights may “also operate as goals of political change for non-governmental actors and as an analogue of the public conception of justice found in well ordered domestic societies” (Beitz, 2009, p. 44). In this respect Beitz’s argument supports the contention of this research; that a human rights approach might be bought to bear on problems traditionally considered only economic or political, or some melange of both. A human rights approach potentially reveals insights into how economic and political problems can be navigated fairly in a domestic capacity, which is then radiated outwards into the international context. Beitz summarises this perspective noting:

I do not mean that the normative requirements of human rights describe or constitute a complete conception of justice. Rather, like a society’s public conception of justice, human rights aspire to function, as a shared moral touchstone or a common reference point in deliberation about political action and social criticism (Beitz, 2009, p. 44).

What is relevant about the Beitz model for this research, is the idea that political and economic decisions might be better resolved in the context of a human rights framework, given that by and large efforts to defend human rights have shown themselves to be at least as much political as they are legal. With this understanding it seems natural to interpret the human rights doctrine as predominantly a political practice rather than a legal one. As Beitz contends:

Human rights are supposed to be critical standards; they are supposed to provide a basis for criticizing existing institutions and conventional beliefs and justifying efforts to change or
revise them. Confining the content of human rights doctrine to norms that either are or could be agreed to among the world’s moral cultures threatens to deprive human rights of their critical edge (Beitz, 2009, p. 78).

In order to arrive at this understanding of human rights as a public political practice Beitz progresses through a painstaking process of establishing what human rights are not. He dismisses the notion that human rights are only or primarily an extension of natural rights, that is, rights that can be seen to be applicable to all human beings ‘as such’. Whilst he concedes that they derive from the natural rights tradition, they are no longer best thought of as “objects that possess the essential features of natural rights” (Beitz, 2009, p. 50). Beitz argues that first and foremost, human rights are claims made upon governments or international actors, by individuals or groups of individuals. They have the potential to galvanise international agents into action, and it is therefore natural that the human rights practice be considered a component of international political discourse. Grounding his conception of human rights in this context, Beitz argues that it is simply not necessary to draw upon received philosophical conventions in order to justify the status of a human rights practice in the international order of things. Beitz argues that human rights should be interpreted “as they present themselves, as a distinct normative system constructed to play a certain role in global political life” (Beitz, 2009, p. 68).

Beitz arrives at this conception by drawing on John Rawls’ *The Law of Peoples* (1997). According to Beitz, Rawls’s understanding of human rights is that they represent a standard “whose satisfaction guarantees a society against external intervention and is necessary for acceptance as a cooperative member of the Society of Peoples” (Beitz, 2009, p. 99). Whilst disagreement about the content of human rights may result in an on-going process of re-evaluation, what can be agreed is that human rights ought to have some role in the way the actions of global political agents can be reasoned and explained. It is in clarifying this role of human rights that their content and nature becomes illuminated. Rawls does not draw on independent philosophical conceptions of human rights and does not consider them natural or universal, “indeed, there could not be, given that human rights are values about which liberal and decent societies are supposed to agree, each for their own reasons” (Beitz, 2009, p. 99). With regard to his definition of liberal decent societies, Rawls identifies their characteristic features to include the absence of aggressive aims, governance “according to a comprehensive and widely shared conception of political rights and justice which embodies an idea of the common good (and…) institutions that make it possible for individuals to participate in law-making and provide opportunities for political dissent. And, importantly, they respect certain basic human rights” (Beitz, 2009, p. 152).

Drawing on this understanding, Beitz contends that it is neither necessary nor useful to presume a nature, value or content unique to human rights themselves and independent of their function in the context of international political discourse. Implicit in this, is the impossibility of the claim that human
rights can appeal universally to all moral codes or embody common standards. An exclusion of a philosophical underpinning of this kind is deliberate. As Beitz describes it:

...human rights need not be interpreted as deriving their authority from a single, more basic value or interest such as those of human dignity, personhood, or membership. The reasons we have to care about them vary with the content of the right in question and the nature of our relationship, if any, with various classes of potential victims of abuse (Beitz, 2009, p. 128).

Or as Hollinger points out:

...the challenge may be less to develop a single minimalist theory of human rights than to co-ordinate the activities of people motivated by several somewhat thicker theories, and to connect the common denominator of these theories to the actual politics of the world (Hollinger in Ignatieff, 2003, p. 125).

The reality is that human rights protect a broad spectrum of interests and in order to do so commitments from a number of agents must be negotiated. Beitz contends that if the discursive function of human rights is taken “as primary, then an account of their normativity need not be embarrassed to appeal to a variety of distinct justifying considerations” (Beitz, 2009, p. 138).

In order to better navigate this complex terrain, Beitz proposes a two level model which contains three simple elements. The first is that human rights should protect the interest of the individual against predictable dangers “to which they are vulnerable under typical circumstances of life in a modern world order composed of states” (Beitz, 2009, p. 109). The second is that they “apply in the first instance to the political institutions of states, including their constitutions, laws and public policies” (Beitz, 2009, p. 109). The third is that they are matters of international concern. Where the government fails in its duty to protect individuals or groups of individuals from predictable dangers, this may be reason-giving for second level agents, (generally speaking governments or institutions external to the state) to intervene. Beitz argues that the contemporary human rights doctrine is an emergent discourse about standards for institutions rather than an established practice drawing authority from moral common denominators. In this sense the practice of human rights can be conceived of as statist, in that it is incumbent on states to provide and protect the rights in the doctrine, and a function of independent states working autonomously but in collaboration.

Beitz takes care to emphasise the important nature of states to the operational potential of the practice. The global political arena is, at its most elementary level, an ever developing negotiation between autonomous states. Reflecting this understanding, Beitz is conscious of the distinction between what he terms a “theory of human rights” and a “theory of ideal global justice” (Beitz, 2009, p. 128). The theory of human rights that Beitz proposes is immediately practicable within political arrangements as they currently stands, not only functional in some far-distant utopia. The point for
Beitz is that “in doing so, we need not commit ourselves to a more inclusive judgement one way or the other about the acceptability or legitimacy of the states system itself, regarded as a question of ideal theory; for our purposes, that question does not arise” (Beitz, 2009, p. 128). This understanding of the human rights practice is particularly relevant to this research; whereby the human rights practice in its current form provides a vehicle via which the problem of unsustainable debt in poor countries can be engaged immediately.

In this way, the forces of the international political environment can be ultimately harnessed to better imbed human rights norms and standards into both domestic and international political discourses and arrangements. The political substance of the world is constitutive of individual states exercising sovereign political authority within a global order which more or less facilitates the collaboration or negotiation between these states. One of the tenets of that order is that states should have not only domestic autonomy but security from the interference of external parties wherever possible. According to Beitz:

...although this structure does not ordinarily sustain itself by enlisting the wills of the individual members of states, it claims a kind of acceptability; its norms present themselves as regulative for states and in some respects for individuals and non-state actors, and non-compliance is generally regarded as a reason for criticism and perhaps sanctions” (Beitz, 2009, p. 129).

Taking into account the reality of the geo-political context in this way is timely. The dynamics of global governance are challenged by the changing nature of a world order within which the capacity for autonomous states to negotiate their position seems increasingly improbable. This certainly fuels critique regarding the viability of the human rights doctrine. Individual states are subject to competing international pressures, and external forces that intrude upon the citizenry are difficult to isolate and control. Structural adjustment and loan conditionality’s are a case in point, but also represent only one example of what are a host of overlapping and interconnected interests that states need negotiate. For these reasons Beitz contends that “the idea of external assistance in the third part of the model should be interpreted so as to embrace the paradigm of “external adaption” as well as those involving more familiar forms of political interference” (Beitz, 2009, p. 116).

As Beitz does not consider it useful to appeal to a larger conception of social justice in order to justify the validity of the practice, he proposes a schema via which the justifiability of claims can be established. As already discussed, the schema includes three principals. The first is that the interest that seeks protection can reasonably be held to be a political priority from the perspective of the interest holder. The second is that it the interest can be protected by the state through readily available legal or political avenues. The third is that where the state fails in this duty, the interest would be appropriately considered as a matter of international concern, given that human rights

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violations are considered reason-giving for the purposes of intervention by agents external to the state (Beitz, 2009, p. 140). Interpreting this schema with regard to the concerns of this research it is argued that the violation of economic and social rights facilitated by the debt servicing requirement in poor countries meets these three criteria.

With regard to economic and social rights (when he refers directly to them) Bietz acknowledges the added difficulty that a state might experience in providing and protecting minimum core obligations, however he negotiates the problem with reference to the concept of “strong beneficence” (Beitz, 2009, p. 167). Beitz describes this as a situation whereby considerations of beneficence may “be enough to justify attributions of responsibility to act” (Beitz, 2009, p. 167). On the issue of whether it is even possible to remedy violations of economic and social rights Beitz notes that:

...a violation might supply a reason for action whose performance would not result in immediate enjoyment of the substance of the right but would increase the chances of that the right-holders would enjoy the substance of the right in the farther future (for example when the reason counts in favour of contributing to a development assistance program” (Beitz, 2009, p. 166).

The conditions that would contribute to a situation requiring of strong beneficence are likely to be satisfied in most poor countries in debt distress. As Beitz notes:

One has only to take note of the extent of severe poverty in these societies and of the fact that, in most of them, economic growth will almost certainly be insufficient, without international action (usually in combination with local reforms), to produce sustainable improvements in living standards. Moreover, in these cases the cost to the wealthy countries of policy measures that would be sufficient, with local cooperation, to bring about a sustainable improvement in standards of living, would most likely be modest. If this is right, then eligible outside agents normally have a relatively strong pro tanto reasons to contribute regardless of the extent and nature of their past or present political and commercial relationships with these societies (Beitz, 2009, p. 168).

The problem that Beitz attempts to address with his conception of human rights as an emergent public political practice finds similar articulation in the work of Ignatieff (2003) who grapples with the same initial frustration as Beitz; that “to say that human rights are legally binding, however, is not to say that there is an authoritative agent with the power to hold sovereign states to the law” (Gutman in Ignatieff, 2003, p. vii). In wrestling with this, Ignatieff arrives at a similar conclusion to Beitz, that the practice of human rights is the practice of deliberation rather than toleration.

We therefore depend for progress in the realm of human rights – as in so many other political realms – on deliberation as well as toleration. And to deliberate with other people,
we need to do more than tolerate them; we need to engage with them constructively, which is in itself a form of respect (Gutman in Ignatieff, 2003, p. xxvii).

Dovetailing Beitz’s conception of human rights, Ignatieff argues that they:

...might become less imperial, if it became more political, that is, if it were understood as a language, not for the proclamation and enactment of eternal verities, but as a discourse for the adjudication of conflict (Ignatieff, 2003, 20).

Furthermore, he contends that “human rights is nothing other than politics, one that must reconcile moral ends to concrete situations and must be prepared to make painful compromises not only between means and ends, but between ends themselves” (Ignatieff, 2003, p. 22).

Ignatieff’s understanding of human rights reflects Beitz’s conception that human rights may not necessarily have an inherent universal value, and nor is it useful to attempt to make them applicable universally by appealing to a common foundation. Ignatieff contends that even if such a foundation could be established:

...universality cannot imply universal assent, since in a world of unequal power, the only propositions that the powerful and powerless would agree on would be entirely toothless and anodyne ones. Rights are universal because they define the universal interests of the powerless, namely that power be exercised over them in ways that respect their autonomy as agents (Ignatieff, 2003, p. 68).

Ignatieff finds that the strength of human rights is found in their capacity to facilitate deliberation. Whilst this might mean that what holds the human rights doctrine together is essentially quite unstable it is at least authentic. Ignatieff argues that:

...shared among equals, rights are not the universal credo of a global society, not a secular religion, but something much more limited and yet just as valuable: the shared vocabulary from which our arguments can begin, and the bare human minimum from which differing ideas of human flourishing can take root (Ignatieff, 2003, p. 95).

To some extent this is an eloquent answer to one of the primary problems with which this thesis seeks to grapple; how to supplant the market with the human person as the centrepiece of social arrangements.

This research contends that the reappropriation of funds intended for debt servicing can be justified with reference to a human rights perspective not only on the grounds that human rights is an emergent practice but also purely as a legalistic claim, and that both these interpretations of the relevance of a human rights approach when coupled together are mutually reinforcing.
Let me now move to some relevant normative considerations about the value of human rights instruments like the International Covenant on Economic, Social and Cultural Rights.

**Human Rights as a Normative Framework**

The adoption by the General Assembly of the Universal Declaration of Human Rights (UDHR) on the 10 December 1948 constituted a seminal moment in the progression of international co-operation in the protection of the individual. This development was deeply political in nature. Whilst Ignatieff contends that “historically speaking, the Universal Declaration is part of a wider re-ordering of the normative order of post-war international relations, designed to create firewalls against barbarism” (Ignatieff, 2003, p. 5), from a practical perspective, it also consolidated in one complete text nearly the entire spectrum of what have come to be accepted as human rights and fundamental freedoms.

Following the adoption of the UDHR, the United Nations Commission on Human Rights (UNCHR) struggled to reach consensus regarding the form in which conventions, which would be legally binding on ratifying states, should take. After much deliberation, the General Assembly was called upon for guidance. In a resolution adopted in 1950, the General Assembly emphasised the interdependence of all categories of human rights and recommended for this reason that the Commission adopt a single convention (General Assembly, A/RES/421, 1950).

At the behest of Western states however, the decision was overturned the following year and the Commission subsequently divided the rights outlined in the Universal Declaration of Human Rights into two separate international Covenants, one on civil and political rights (ICCPR) and the other on economic, social and cultural rights (ICESCR). Beitz surmises that:

...together with the legal prohibition of aggressive war and the establishment of an institutional framework for collective security, the articulation of a doctrine of international human rights is among the most ambitious elements of the settlement of World War II. This doctrine, progressively elaborated in a series of international covenants and conventions, supplies the norms of an increasingly elaborate global practice (Beitz, 2009, p. 197).

This research is concerned predominantly with the ICESCR, adopted by the United Nations General Assembly on December 16, 1966 and entered into force from January 3, 1976. The ICESCR is a document concerned with the provision and protection of economic, social and cultural rights, notably labour rights, rights to health, education and an adequate standard of living. As of 2015 the Covenant has 164 signature parties and a further five countries, including the U.S, have signed but not yet ratified it. The ICESCR has become an integral part of the fabric of international human rights
law, both in the universal and regional capacity. Articulations around economic and social rights can also be found in the European Social Charter, in the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, and in the African Charter on Human and Peoples Rights.

Compliance by state parties with their duties and obligations to the ICESCR is monitored by the CESCR, a UN body consisting of 18 independent experts. Its main function is to monitor the extent to which state parties observe their obligations to the ICESCR and to aid state parties in clarifying, through the publication of General Comments, the expected level of compliance regarding the rights and duties in question. In the view of former Special Rapporteur Philip Aston, General Comments constitute “the Committee’s own distillations of its jurisprudence on a particular issue” (Aston, 2012) although they have no particular legal standing. The CESCR has clarified that using the maximum of its available resources, a state has a primary obligation to respect, protect, fulfil, monitor and promote human rights. These have become known as the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights adopted in 2011.

Following the first two years of a state becoming party to the ICESCR, it is required to submit an initial report to the CESCR and then a follow up report each successive five year mark. The CESCR examines the findings of these reports and assesses the extent to which the state has or has not met their responsibilities. The activities of the CESCR are designed to enhance the development of the normative content of the rights recognised in the ICESCR, to act as a catalyst for state action in implementing the rights, and to accompany the construction of the appropriate national mechanisms for ensuring accountability. The effectiveness of the CESCR in achieving these objectives is debatable, as Aston notes, “the impact of this Committee is radically more limited than one would like” (Aston, 2012).

In June 2008 the UNHRC adopted the Optional Protocol to the ICESCR, a legal instrument to strengthen the protection of the rights enshrined in it. The Optional Protocol provides the opportunity for individuals seeking a remedy for an ICESCR rights violation to have their complaints heard and adjudicated by the CESCR.

Taken as a whole, the international human rights normative framework includes all civil, cultural, political, economic and social rights and the right to development. It is considered that “all rights are equally important as a means of ensuring that all people can live in freedom and dignity” (CESCR, 2001, p. 5). Included in this is the right of those affected by key decisions to participate in relevant decision-making processes. The right to participate is reflected not only in the ICESCR but echoed in numerous international instruments, particularly the Declaration on the Right to Development. The CESCR has noted that historically a policy or programme that is formulated and implemented without the involvement and consensus of those whom it will affect is most usually unsuccessful, and that
“although free and fair elections are a crucial component of the right to participate, they are not enough to ensure that those living in poverty enjoy the right to participate in the decisions affecting their lives” (CESCR, 2001, p. 6).

The CESCR has also emphasized that policies must be designed and implemented in accordance with the procedural rights articulated in international human rights law, including the rights to information, participation, accountability and transparency.

These principals are frequently referred to using the mnemonic device PANTHER. First devised by the United Nations Food and Agriculture Organization (FAO), PANTHER stands for Participation, Accountability, Non-Discrimination, Transparency, Human Dignity, Empowerment and Rule of Law (CESCR, 2012, p. 5).

These principals have enjoyed greater attention in recent years, in the context of the increasing popularity of a rights based approach to development, which promotes participatory mechanisms that reflect human rights principals, however the need for these channels of participation to become more imbedded is broadly recognised. In order to facilitate this:

...rights holders need to be able to exercise their rights to information, to freedom of expression, and to freedom of assembly. Access to effective judicial or other appropriate remedies for victims of ESC rights violations is another precondition for ensuring accountability (CESR, 2012, p. 6).

This is particularly relevant with respect to the policy requirements and conditions that non-state actors such as the IMF and World Bank frequently impose on governments and citizens of sovereign countries. The previous sections of this research have considered the broad infrastructural and social upheaval wrought by loan conditionalities and SAPs. Countries who have qualified for (or are seeking to qualify for) debt relief, must comply with loan conditionality’s which are formulated in a non-democratic, non-transparent, exclusionary manner, and without the expressed consent or participation of those peoples upon whom they will most heavily impact. This represents a violation of not only economic and social rights, but the rights of individuals to information, to transparency, to accountability and to participation.

The ICESCR and the ICCPR

The basis of the decision to divide human rights into two distinct categories was justified on a number of grounds, most of which have since been wholly rejected. Originally, the two sets of rights were perceived to be fundamentally different in nature and therefore requiring of unique instruments. Civil and political rights were viewed as absolute, where economic and social rights were viewed as
programmatic. This spoke to the suspicion that civil and political rights are judiciable where economic and social rights are aspirational. This supposed logistical distinction masks a deeper ideological one. That the prioritising of civil and political rights over economic and social rights has locked-step with the increasing centrality of the market as the arbiter of all value seems more than serendipity. The obligatory nature of economic and social rights implies that governments would need to actively participate in their provision, this is in contrast to civil and political rights, where the requirement of government is to refrain from interfering in their natural manifestation. This active provision is presumed to be attached to costs, since it is incumbent on the state to provide for the welfare of the individual; civil and political rights on the other hand are presumed to be free.

Political and civil rights, so the conventional wisdom would have it, are real; economic, cultural and social rights are to be implemented only to the extent that states, meaning the rulers of states, decide that it is feasible, in their opinion, to take them seriously (Cavanagh, Wysham & Arruda, 1994, p. 31).

While civil and political rights have been the focus of much attention both in academic scholarship and in practice, economic and social rights are frequently ignored, a development vigorously protested by the General Assembly and UN bodies in general. Indeed at the time of inception the General Assembly passed a resolution highlighting the interrelated and indivisible nature of all human rights, a sentiment articulated most strenuously at the World Conference on Human Rights in 1993. The conference, which included 171 participating parties, resulted in the Vienna Declaration and Programme of Action, which describes all human rights as “universal, indivisible and interdependent and interrelated” (Vienna Declaration and Programme of Action, 1993, UN doc A/CONF.157/23, Part I, para 5). This need for economic and social rights, and civil and political rights, to be equally considered is more than academic, as the provision and protection of any human right is deeply interwoven with the provision and protection of all human rights.

For example, if a person is illiterate, their ability to gather the necessary information to actively participate in public life is limited, further worsening their chance to claim their ESC rights (CESR, 2012a, p. 20).

Certainly the potential of the human person might be most clearly expressed through the use of civil and political rights, but these rights can only be exercised in a situation of adequate social and economic circumstances.

Not gladly accepting this perceived division between the rights, the UN has made consistent and deliberate efforts to dispel the stigma attached to economic and social rights, attempting on several occasions to clarify any perceived ambiguity regarding their enforceability. It is important to distinguish between the supposed ambiguity of economic and social rights and the articulation of
rights themselves. Neither the rights, nor the terminology of the rights, nor the specific obligations of the rights are ambiguous. The ambiguity is specific to a difficulty in managing to enforce or achieve consistent protection of them. AWID attributes this to a deficit of political will.

While articulating what constitutes a violation of the rights enumerated in the ICESCR has been problematic, this is more so because of a lack of political will on the part of the policy makers and the international community rather than such violations being vague or uncertain (AWID, 2002, p. 4).

This research contends that enforceability is a function primarily of domestic governments, or at least that is where international law and the UN system place the responsibility, particularly with regard to what is permitted to take place within their own jurisdictions. In spite of the best efforts of the General Assembly however:

...the long-standing perception that ESC rights were qualitatively different from civil and political rights [is] reflected [in] their limited normative elaboration through the courts and international human rights bodies in comparison to civil and political rights (CESR, 2012a, p. 2).

There is another argument that contends that the lack of jurisprudence or a reasoned body of legal regulation for economic and social rights is a reflection of their relative historical and ideological unimportance. The evolution of law over the centuries has been primarily engaged in building a legal foundation to the capitalist market structure. The development of a legal foundation for the welfare state has found expression in precious few countries. As a consequence of this:

ESC rights are considered to be ‘programmatic’ rights – as opposed to directly enforceable rights. The criteria, therefore, for designing and implementing social policies is left to the complete discretion of the political branches. Even in jurisdictions where a legal basis for the welfare state has been nurtured, there is still no distinct legal discipline for ESC rights (International Commission of Jurists, 2008, p. 13).

Whilst this research concurs with the position of the General Assembly that all human rights are universal and indivisible, it would be nonetheless remiss to imply that there are not substantial differences between the two schools of rights, or that the extent to which the state is heavily implicated in the provision of economic and social rights as compared with civil and political rights is imagined. Ideological constraints often act to block the full implementation of economic and social rights as protecting them in earnest:

...implies at the same time, a commitment to social integration, solidarity and equality, including tackling the question of income distribution. Economic, social and cultural rights
include a major concern with the protection of vulnerable groups, such as the poor, the handicapped and indigenous peoples (Eide & Rosas, 2001, 5).

However the CESR contends that the perceived burden on governments associated with the provision of economic and social rights is overstated, and that:

...both civil and political rights and ESC rights contain positive and negative elements to respect, protect and fulfil human rights, and many aspects of civil and political rights fulfilment are also heavily resource dependent – such as creating a functioning judicial system that can ensure the right to a fair trial (CESR, 2012a, p. 3).

The CESR argues that the real difference between the categories of rights is that it is simply more difficult to hold agents accountable for violations of economic and social rights. For example, “attributing state responsibility for chronic problems such as high rates of maternal death involves more complex analysis of the link between conduct and result than establishing state accountability in cases of torture or forced eviction” (CESR, 2012a, p. 31). This reality is exacerbated as the provision and protection of basic needs, such as food, health and shelter seem to be ever more caught in the space between international financial development institutions, humanitarian aid organisations, the private sector, regional and local governments and other non-state actors. The decline of the nation-state has made the provision and protection of economic and social rights both more difficult and more urgent.

This tension between these two strands of rights is not only found in the discourse, but also reflected in subtle, yet crucial, technical differences between the ICESCR and the ICCPR. The most significant difference exists in the wording of Article 2 of the ICESCR which states:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present covenant by all appropriate means, including particularly the adoption of legislative measures (United Nations, Treaty Series, vol. 993, p. 3)

This article elucidates two important themes. The first is the doctrine of progressive realisation and the second is the limitation of maximum available resources. Both of these themes are noticeably absent from the ICCPR, which outlines rights which have become accepted as ‘classic’ rights; the right to life, the right to freedom from torture and slavery, liberty and security of the person, freedom of movement, equality before the law and freedom of speech, religion and association. Article 4(2) of the ICCPR provides that most of these rights may not be abrogated even in a “time of emergency which threatens the life of the nation” (United Nations, Treaty Series, vol. 999, p. 171).
The wording of the ICCPR seems to confirm the expectation that civil and political rights, often considered first generation, should be more consistently monitored than economic and social, or second generation, rights. The division of rights into these categories was first suggested by Karl Vasak in 1979, and whilst this research concedes that such categories might be useful subject groupings, it does not accept the elevation of one group of rights over another. This position is supported in the discourse which suggests that:

...the evolution of human rights at the national level does not make it possible to place the emergence of different human rights into clear-cut stages. Efforts to do so would in any case make it necessary to distinguish also between civil and political rights, since political rights were accepted as human rights much later than some of the civil rights, in some countries even later than economic and social rights (Eide & Rosas, 2001, p. 4).

In any case, many of the initial anxieties regarding the nature of economic and social rights have proved unwarranted, or certainly exaggerated. As noted by CESR:

In affirming the 'justiciability' of economic, social and cultural rights in particular cases, the jurisprudence of national courts and regional and international adjudication bodies has similarly demonstrated that the concepts and obligations underpinning ESC rights can be defined with sufficient precision to form legally binding and enforceable standards (CESR, 2012a, p. 3).

Eide and Rosas contend that arguments concerning the non-justiciability of economic and social rights are overstated; the nature in which these rights have manifest over the past fifty years simply does not support such an assertion.

In terms of a willingness to ratify instruments, experience has shown that predictions were wrong. Nearly all states which have ratified the ICCPR have also ratified the International Covenant on Economic, Social and Cultural Rights (Eide & Rosas, 2001, p. 10).

As a result of this, in increments the ICESCR is emerging as a practical and useful instrument, as increasingly it is with success that “grassroots organisations are using these rights in their advocacy, legal scholars, domestic courts, and international bodies are articulating the necessary principals for their legal enforcement” (AWID, 2002, p. 2).

**Core Obligations**

The primary duty that signature parties to the ICESCR must fulfil is the satisfaction of core obligations,
also often referred to as core content, vital minimum or minimum thresholds. The concept of core obligations refers to the basic minimum threshold needed to establish the right as recognisable or meaningful. Whilst the enumerated rights are subject to resource availability, and therefore may be realised progressively, CESCR’s General Comment No. 3, adopted in 1990, confirms that State Parties have a “core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights” (CESCR, General Comment no 3 E/1991/23). Furthermore:

...failure by the state to meet these minimum levels amounts to a prima facie presumption that it has violated the Covenant – a presumption that can only be discharged if the state can demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations (CESR, 2012a, p. 4).

The minimum core requirements that a state is expected to meet are as follows; minimum essential food which is sufficient, nutritionally adequate and safe; essential primary health care; basic shelter and housing and basic forms of education. These core obligations are considered non-derogable, that is, they continue to exist in situations of conflict, emergency and natural disaster. CESCR notes in General Comment no 3 that without such non-derogable core obligations, the ICESCR, “would largely be deprived of its raison d’etre” (CESCR, General Comment no 3 E/1991/23).

Further clarifying the core obligations arising from the minimum essential levels of the right to food, education and health, in General Comment no 14 the Committee emphasises that it is the particular responsibility of all those in a position to offer assistance, to provide “international assistance and cooperation, especially economic and technical” (CESCR, General Comment 14, E/C.12/2000/4) to enable developing countries to fulfil their core obligations. In order for a state party to attribute its failure to meet minimum core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources at its disposal to satisfy those minimum obligations as a matter of priority. In order to properly evaluate a state’s efforts in this regard, the Committee has designed an analytical framework often referred to as the “tripartite typology” (Sepúlveda, 2003, p. 209) which outlines a duty of care that the state has towards these obligations; that is to respect (to refrain from interfering with), to protect (to prevent third parties from interfering with) and to fulfil (to adopt necessary measures to achieve).

The requirement to respect, protect and fulfil core obligations gives rise not only to national responsibilities for all states, but also international responsibilities for developed states and others that are in a position to assist. This understanding of core obligations in particular is central to the argument that the ICESCR can be invoked in support of the re-appropriation of funds intended for debt servicing. Where a state is unable to meet its core obligations regarding the minimum essential levels of food, education and health for its populace, and it can be established that this is a result of debt servicing, it is required to prioritise the achievement of these rights over debt servicing.

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obligations. Furthermore and perhaps more importantly, developed states have an international responsibility not only to protect but assist poor states in these efforts. At the very least if invoking the ICESCR as a means of justifying the re-appropriation of funds intended for debt servicing was considered appropriate, other state parties to the Covenant would not be at liberty to obstruct such an initiative, but in fact would conceivably be required to encourage, support and assist it.

Thus core obligations as so described in the ICESCR have a quintessential role to play in national and international development policies, including those proposed by non-state actors and IFIs. When grouped together, the core obligations establish an international minimum threshold that all development policies should be designed to respect. In accordance with General Comment No 14, if a national or international anti-poverty strategy does not reflect this minimum threshold it is inconsistent with the legally binding obligations of the ICESCR (CESCR, General Comment 14, E/C.12/2000/4). Were international state parties or non-state actors to sabotage any efforts by poor states to better fulfil satisfaction of the minimum threshold they would be in contravention of their obligations. In this manner IFI’s would not be justified in opposing the re-appropriation of funds intended for debt servicing where it is a measure taken by a state to better fulfil its obligations to the ICESCR. Furthermore, after a state party has ensured the fulfilment of core obligations, it is incumbent upon the state to continue to move towards the realisation of all the rights enshrined in the ICESCR. Therefore:

...while the full realisation of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenants entry into force for the states concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognised in the Covenant (CESCR, General Comment no 3 E/1991/23).

Considering the reappropriation of funds intended for debt servicing, such action is not only appropriate where the core obligations are being neglected, but rather in any instance where the full impact of the Covenant is prevented from being realised due to the requirements of debt servicing.

The true value of the concept of minimum core obligations is the notion that provision of a basic minimum for all those residing in the jurisdiction of a nominated state comes before anything else, and that where states have failed to meet this minimum, it is incumbent upon them to show that they have employed all available resources. Essentially there is a threshold of basic needs that governments are obliged to protect from the intrusion of external parties such as foreign government, IFIs and transnational corporations. The CESR notes that:

Looking ahead, concepts from other fields may increasingly enrich the definition of the minimum core. For example, the “Social Protection Floor Initiative” (SPF Initiative), adopted
in 2009 as one of the UN's nine key priorities to cope with the global financial crisis, mandates national task forces to develop definitions of the social protection floor, which may be relevant in further defining minimum essential levels of ESC rights fulfilment (CESR, 2012a, p. 4).

**Progressive Realisation and Non-Discrimination**

The two broad categories of violations that apply to each of the rights in the ICESCR are the duty of progressive realisation and a duty of non-discrimination. Article 2 of the Covenant stipulates that state parties have undertaken legally binding obligations to employ the maximum of their available resources to ‘achieve progressively’ the full realisation of economic and social rights articulated in the ICESCR. The duty of progressive realisation is to recognise that poor countries are rarely in a secure enough position to ensure the same standard of living, education and health care as richer countries. This is distinguishable from a willingness to condone the perpetuation of economic injustice and poverty. It is designed to ensure state parties are compelled to strive towards an improvement in the provision of economic and social rights on a continuum until fulfilment. The CESCR first addressed the issue of progressive realisation in 1990, in General Comment No. 3, emphasising that:

> ...states have not only 'progressive' duties, but also 'immediate duties' under the Covenant, including to uphold the principal of non-discrimination, as well as to meet the 'minimum core obligations' contained in the Covenant and the provisions 'capable of immediate application by judicial and other organs' in many legal systems' (CESCR, General Comment no 3 E/1991/23).

In the same General Comment No 3, under Article 2(1), the Committee points out that while the concept of progressive realisation recognizes the reality that the full realisation of all economic and social rights is not likely to be achieved immediately, this concession should be contextualised with reference to the overarching objective, which is to establish clear obligations that mandate that states parties move as expeditiously as possible towards the full realisation of these rights (CESCR, General Comment no 3 E/1991/23). Equally the ICESCR enshrines the principal of non-retrogression which dictates that states are not permitted to act in a way that retards the realisation of economic and social rights. The International Commission of Jurists has noted that:

> ...as a standard for normative comparison, the prohibition of retrogression means that any measure adopted by the State that suppresses, restricts or limits the content of the entitlements already guaranteed by law, constitutes a prima facie violation. It entails a comparison between the previously existing and the newly passed legislation, regulations or
practices, in order to assess their retrospective character (International Commission of

Under the jurisprudence of the CESCR, where the state does implement retrogressive measures, the
onus of responsibility is on the state to show that “the measures were taken in pursuit of a pressing
goal, that they were strictly necessary, and that there were no alternatives of less restrictive
measures available” (International Commission of Jurists, 2008, p. 30). Therefore in order to credibly
argue that they have not breached the duty of progressive realisation, states must satisfy a burden of
proof showing that they had no alternative but to enact retrogressive measures.

The ICESCR assumes no signature party to the Covenant is too poor to meet the basic needs of its
population, nor is it permitted to repeal services which result in diminished access to those services.
This argument can be extrapolated to contend that where a country is being made too poor to meet
the basic needs of its populace due to the requirements of debt servicing, it is in contravention of the
ICESCR by facilitating that situation. Moreover where a country is stripping back services that even
marginally diminish the fulfilment of basic needs (the principal of non-regression), and where this is a
direct repercussion of being compelled to service debt repayments, (illegitimate, odious or
otherwise), that state is in violation of its obligations to the ICESCR:

Thus while the full realisation of the relevant rights may be achieved progressively, steps
towards that goal must be taken within a relatively short time after the Covenants’ entry
into force for the states concerned. Such steps should be deliberate, concrete and targeted
as clearly as possible towards meeting the obligations recognised in the Covenant (CESCR,

To put it bluntly what is unique about economic and social rights is only the question of the
availability of means; the obligations are otherwise as immediate as those relating to civil and political
rights. The question of availability of means is one which this research seeks to address.

Article 2.2 of the ICESCR states:

The state parties to the present Covenant undertake to guarantee that the rights enunciated
in the present Covenant will be exercised without discrimination of any kind as to race,
colour, sex, language, religion, political and or other opinion, national or social origin,
property, birth or other status (United Nations, Treaty Series, vol. 993, p. 3).

This article is referred to as the duty of non-discrimination which is considered “one of the
fundamental principals underpinning human rights law. The Committee describes it as an
“intermediate and cross-cutting obligation under the Covenant” (CESR, 2012a, p. 3). Its implication is
that provision of government services must be made equally available to men and women, people
with disabilities and of different religious or ethnic groups. This duty is water-tight and no justification for discrimination can be tolerated. This seriousness of the duty is reflected in a plethora of regional, national and international adjudication made on the grounds of non-discrimination which has frequently been interpreted expansively to include “a combination of factors (which) resulted in discriminatory circumstances or disproportionately affected particular social groups” (CESR, 2012, p. 4). Furthermore the right to non-discrimination also has the potential to be seen in a global context. As Shah points out:

...some poor countries are told by the IMF and WB to pay around 20 to 25 per cent of their export earnings towards debt repayment, yet no European country, including Britain, France or Italy is repaying it loans at levels higher than four per cent. Why do they insist poor African countries pay what they refuse to pay and consider it sustainable? We are forced to make sad assumptions in the absence of a plausible answer (Shah, 2005, para 4).

The sad assumption is that discrimination is both local and global and always pervasive where the distribution of power is so intensely lopsided.

If a state fails to satisfy the requirements of these two broad categories (progressive realisation and non-discrimination) in fulfilling its obligations with respect to any of the human rights included in the ICESCR, the state is considered to be in violation of it.
CHAPTER SIX: HUMAN RIGHTS AND DEBT: INVOKING THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Global finance is not an end in itself and this needs to be stated and re-stated.

David Kinley, 2010.

The formal link between human rights and debt extends back to 1998 (after eleven consecutive mandates on civil and political rights) when the Commission on Human Rights appointed Special Rapporteur Reinaldo Figueredo specifically to examine the effects of foreign debt on the fulfilment and protection of economic and social rights. Throughout his three year mandate, he failed to produce a single report, nor did Fantu Cheru, who was at that time the appointed Independent Expert of Structural Adjustment Policies. One can only speculate that the strength of the connection between foreign debt and economic and social rights was thought either not sufficiently significant or too crushing to report upon. Whatever the explanation, in 2000 the Commission merged the mandate of the Special Rapporteur and the Independent Expert into one mandate under the Independent Expert on the Effects of Structural Adjustment Policies and Foreign Debt in the Full Enjoyment of all Human Rights, Particularly Economic, Social and Cultural Rights as so established by the United Nations Human Rights Council in its resolution 7/4, under Cheru’s directorate (Özden, 2007, p. 16).

Before resigning from his post in 2001, Cheru presented his final report in which he criticized heavily the IMF and the World Bank for their economic policy intervention in poor countries and their impact on the provision and protection of economic and social rights. Following Cheru’s departure, Bernards Mudho of Kenya was appointed to the role, producing a number of reports which were presented both to the General Assembly and the Human Rights Council. Whilst the report did include a robust critique of IFIs, Özden notes of Mudho that:

...contrary to his predecessor, who pleaded for the cancellation of debt, he evokes the “viability” of the debt. Yet, to ask the question of the viability of the debt without examining its genesis, without conducting accurate and independent audits on each of its elements in their transformations and various wandering, would be a travesty of justice (Özden, 2007, p. 17).

2004/18, the then Commission on Human Rights requested the Independent Expert on economic reform policies draft general guidelines to be observed by not only states, but international and national financial institutions, both private and public (UN Commission on Human Rights, E/CN.4/RES/2004/18). These guidelines pertained to structural reform programs, debt repayments and measures arising out of debt relief procedures, to ensure that commitments associated with foreign debt did not undermine obligations towards the realization of economic, social and cultural rights.

Subsequent to this, the Human Rights Council requested that the OHCHR bring together a panel of experts to draft the General Guidelines. The objective was to achieve clarity over the impact of both debt relief programs and economic reform programs, on a state’s ability to satisfy human rights obligations, and further to make recommendations on how states and other relevant agents could better protect economic and social rights when implementing these programmes.

With the support of OHCHR, the Independent Expert held four regional consultations on the Draft General Guidelines between June 2010 and June 2011. Bringing together government representatives, regional economic commissions, civil society groups, academics and experts, the brief was to firstly consider the problem faced by states and IFIs in managing debt repayments and adjustment programmes imposed as a condition of debt-relief, and secondly to maintain compliance with economic and social rights obligations. A report was compiled detailing the outcome of the consultations and presented to the seventeenth session of the Human Rights Council in June 2011.

In November 2011 the Independent Expert convened a meeting of specialists to review and revise the Draft Guidelines compiled in the regional consultations. In the spirit of encouraging broader participation, the updated Guidelines were published on the Independent Expert’s web page, and an invitation to public comment was extended (Özden, 2007, p. 19)

The painfully slow development of a framework of debtor protection reflects the reality that it is an underdeveloped feature of international law. The debtor protection principal enshrines the basic understanding that finances needed to support minimum thresholds of basic needs are exempt from being drawn upon to fund debt servicing, and indeed most sovereign nations have some version of debtor protection built into their legal and financial systems. In the U.S for example, municipalities are prevented from raising revenue to service debts at the expense of the provision of basic social services. It is commonplace in sovereign legal architecture to include an articulation of the duties creditors must fulfil in order to qualify for protection of their contractual rights. Failure to comply with these duties leaves creditors vulnerable to claims for compensation and rightly so. Raffer contends however that:

…establishing and enforcing these principals is the duty of governments, both with regard to
domestic and international laws. While the private sector has no further duty but to abide by laws passed by others, governments also have the obligation to preserve the foundation of the Rule of Law, including international law, and to safeguard human rights. Creditor governments have not done so, but have abetted unlawful practices, such as the violation of membership rights of debtor countries by IFIs (Raffer, 2010, p. 106).

This research contends that, rather than waiting for creditors or creditor governments to preserve international rule of law and protect human rights, the burden of responsibility should fall to debtor governments, in so far as they should not be obliged to respect the right of creditors to enjoy contractual protection whilst their human rights obligations towards their own citizens are not being met. As Ignatieff points out:

...trade liberalization and free markets do not necessarily bring human rights and democracy in their wake. It is quite conceivable to combine authoritarian politics with free markets, despotic rule with private property (Ignatieff, 2003, p. 24).

Ignatieff contends that it is naïve to conflate the expansion of markets with the broader proliferation or implementation of the human rights doctrine, noting that “when capitalism enters the gates of a closed society, it does not necessarily function as a Trojan horse for human rights (Ignatieff, 2003, p. 24).

As Özden notes, it has been the position of several Special Rapporteurs of the Commission of Human Rights that the consequences of unsustainable debt and the implementation of adjustment programs have had a caustic impact on the fulfilment of economic and social rights globally. The Special Rapporteur on the Right to Food argues that the debt servicing imperative is central to the inability of governments to satisfy the right of citizens to adequate nutrition, denouncing also the privatisation of water supplies and agricultural sectors (Özden, 2007, p. 19). Echoing this position, the Special Rapporteur on the Right to Adequate Housing has stated that the outcome of austerity programs in HIPC countries is diminished access of the poorest citizens to land, water and housing, and has implored states to “reconsider their policies with the international financial institutions in such a way as to respect their human rights commitments” (Özden, 2007, p. 19). The Special Rapporteur on the Right to Education has rallied against the introduction of user-pays programmes into the education sector, particularly at the primary school level, arguing for “reducing the debt and increasing international financing for education, with a view to reversing retrogression regarding the right to education, especially in Africa and Central Asia” (Özden, 2007, p. 19). With regard to trade rights, “which promote education as a commercial service, the Special Rapporteur has repeatedly affirmed that the right to education is still a human right, thus schooling should remain a public service” (Özden, 2007, p. 20).
The frank petition, by numerous Special Rapporteurs, for the better integration of a human rights perspective into the IMF and World Bank policy intervention into poor countries has been re-iterated by the CESCR repeatedly via General Comments. In General Comment 2 on article 22 on the ICESCR (E/1990/23) the Committee noted that “this provision should be interpreted so as to include virtually all United Nations organs and agencies involved in any aspect of international development cooperation, including the IMF and the World Bank” (CESCR, General Comment 2, E/1990/23). The Committee further notes that all measures designed to deal with unsustainable debt should be made in full recognition of a state’s obligations to protect and promote economic and social rights, including the possibility of pro-active measures to achieve greater international co-operation and debt relief. The Committee noted that lender countries, in particular those who have influence over the decisions of the IMF and World Bank, should:

…ensure that the policies and decisions of those organisations are in conformity with the obligations of state parties to the Covenant, in particular the obligations contained in articles 21, 22, and 23 concerning international assistance and cooperation (CESCR, General Comment 2, E/1990/23).

Furthermore, the Committee has frequently recommended to all parties (creditors and borrowers) that they demonstrate consideration for, and compliance with, economic and social rights obligations, noting in particular with regard to Algeria that:

…the State party’s obligations under the Covenant should be taken into account in all its negotiations with international financial institutions, such as the International Monetary Fund, the World Bank and the World Trade Organisation, to ensure that economic, social and cultural rights are not undermined (CESCR, E/C.12/1/Add.71).

**International Law and the Litigation of Sovereign Debt**

Perhaps the most defining feature of sovereign debt is that when compared with corporate debt, the possibilities for legal enforcement are limited. There are particular laws pertaining to sovereign debt and they have progressed through a number of evolutions, the most significant of which is perhaps the move away from ‘absolute’ sovereignty of the debt.

From a corporate perspective, debt contracts are enforceable via the court system. In the event that a corporation seeks to repudiate its debt, it mostly likely would be sued and thereby compelled by the courts to hand assets over to the creditor. The enforcement mechanisms with regard to sovereign debt are less aggressive and this is a result of two considerations. The first is in reflection of the
reality that few sovereign assets are situated in foreign jurisdictions, and a sovereign is unlikely to relinquish assets within its own jurisdiction in the event of a default. Furthermore, legal principles protect sovereign assets even in the instance that they are located in foreign jurisdictions, although the robustness of these protections has been increasingly weakened over time as a result of enforcement possibilities emerging through statutory changes and case law (Panizza, Sturzenegger, & Zettelmeyer, 2009, p. 652).

Sovereign debtors have traditionally been protected by the principle of absolute sovereignty which stipulates that a sovereign cannot be sued in a foreign court without their consent. This principal is derived from the equality of sovereign nations under international law, which embodies the principal that legal persons of equal standing cannot have their disputes settled in the courts of one of them. Up until the 1950s, absolute immunity was the dominant doctrine, extending even to include sovereign immunity in commercial transactions between foreign states and private individuals from another state. This served to protect governments from the potential impacts of commercial prerogatives on diplomatic relations. The only avenue left open to creditors was to seek repayment of debt outstanding by lobbying their own government to intervene on their behalf. After WWII however, the limitations of the principal began to be realised (Brownlie, 2003, p. 325).

For the U.S, the cold war played a key role in the broader re-consideration of the principal, as they were uncomfortable with the protection it afforded Soviet owned companies operating in the U.S. The government pioneered a narrower interpretation, whereby foreign sovereigns would be denied immunity for commercial activities undertaken inside the U.S. This view was embodied in the FSIA (1976), which permits private parties to sue a foreign government in a U.S court where the complaint is concerned with a commercial activity. The U.K enacted similar legislation in 1978.

As a result of these changes, sovereigns can now be held legally accountable for breach of commercial contracts with foreign parties, in the same way they would be held accountable for breach of commercial contracts with private parties. This does not however, entirely resolve the question, as it becomes necessary, with respect to the terms of foreign sovereign immunity law, to stipulate the parameters of both a commercial transaction and of sovereignty.

According to the FSIA, the definition of a sovereign includes both instrumentalities and agencies. In accordance with this definition, several court decisions have held that the issuance of sovereign bonds constitutes a commercial activity. A 1992 U.S Supreme Court decision in Republic of Argentina v. Weltover, (Republic of Argentina v. Weltover, 1992) established that suspending payments on debt contracts that require payment in the U.S constitutes direct effects within the U.S. Accordingly (under U.S law) international bonds issued by a sovereign, and a subsequent default, are considered commercial activities, irrespective of the purpose of the issue or the reason behind the default. Moreover, whatever protections that remain for sovereigns can be contractually waived. As a result,
sovereign immunity no longer provides a shield for sovereign debtors from creditor litigation under U.S law.

Sovereign immunity laws still however provide some protection against attachment proceedings. Under the FSIA for example, central bank assets, including international reserves, are typically immune. Most of its assets, in particular international reserves and other assets necessary for the exercise of key central banking functions, generally enjoy immunity, unless this is has been explicitly waived. Furthermore, a sovereign or a central bank can attempt to limit attachable assets by situating them beyond the reach of foreign courts. For example, government and central bank assets have been placed with the Bank for International Settlements (BIS) in Switzerland to benefit from the legal protections extended to the BIS against attachment proceedings (Panizza, Sturzenegger, & Zettelmeyer, 2009, p. 678).

In addition to sovereign immunity, two other legal principles were invoked by sovereign debtors in resisting creditor lawsuits during the 1980s and 1990s. The first is the act of state doctrine, which notes that courts should not judge the validity of a foreign sovereign’s acts committed on its territory. “In contrast to sovereign immunity, which acts as a jurisdictional bar to suits against a sovereign, the act of state doctrine is a judicially created rule of abstention concerning the justiciability of the acts of foreign governments” (Power, 1996, p. 2732).

Unlike sovereign immunity, the act of state defence cannot be waived, and in any case, the doctrine has proved inoperable given that defaulting in international jurisdictions is not considered to be a sovereign act worthy of judicial deference. The second relevant legal principal is international comity, which, according to an 1895 U.S. Supreme Court decision, is defined as “the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation” (Hilton v. Guyot, 1895). International comity is considered a soft principle, described by Power (1996, p. 2738) as “not the rule of law, but rather one of practice, convenience, and expediency” and Brownlie as a principle that speaks to “neighbourliness and mutual respect” (2003, p. 28). In spite of its relative softness, the principle has inspired a number of court decisions that have been both advantageous and disadvantageous to the sovereign debtor. Comity has been decided in practice with regard to the extent to which the court finds that a debtor’s actions can be considered justified with respect to normative debt work-out arrangements. This has allowed the U.S executive branch to influence debt-related disputes presented in U.S courts. Comity therefore, is an unreliable principle, as “the defense’s likelihood of success is subject to reassessment with each shift in U.S policy on sovereign debt restructuring” (Power, 1996, p. 2741).

The legal protections afforded sovereigns from court action by creditors therefore were significantly reduced in the 1980s. A further, and perhaps more important consideration, is the extent to which this facilitated creditors in securing repayment from the sovereign debtor in the event of default.
A few landmark cases following the debt crisis of the 1980s are significant on this point. The first case was Allied Bank International v. Banco Credito Agricola de Cartago (Allied Bank International v. Banco Credito Agricola de Cartago, 1983). In 1981, Costa Rica suspended debt payments to a multi member bank syndicate. A restructuring agreement was subsequently reached with all creditors but one, which sued in U.S courts through Allied Bank. A lower court ruled in favour of Costa Rica, accepting the argument that Costa Rica’s actions were protected by the act of state doctrine. In 1984, an appeals court disagreed with this argument on the grounds that defaulting on foreign debt did not constitute an act of state.

Initially the lower court ruling was upheld on comity grounds, based on the assumption that the U.S executive branch was likely supportive of Costa Rica’s attempt to restructure its debt. The court ruled that Costa Rica’s default corresponded with the reorganization of a business pursuant to Chapter 11 of the Bankruptcy Code.

On that basis, Costa Rica’s prohibition of payment of debt was not a repudiation of the debt but rather was merely a deferral of payments while it attempted in good faith to renegotiate its obligations (Allied Bank International v. Banco Credito Agricola de Cartago, 1983).

The matter was not there concluded however, as in a rehearing of the case in March 1985, the court reversed its decision after the U.S Department of Justice contended that the assumption of the court in deciding the case was misplaced, and that the U.S government did not agree with Costa Rica’s attempted debt restructuring. The court concluded that “while parties may agree to renegotiate conditions of payment, the underlying obligations to pay nevertheless remain valid and enforceable” (Allied Bank International v. Banco Credito Agricola de Cartago, 1985). This led to a settlement in which the U.S government encouraged Fidelity Union to accept the package agreed by the rest of the members of the bank syndicate. Whilst in the final outcome, Fidelity did not secure a more lucrative deal than the bank syndicate, the Allied Bank case nonetheless demonstrated that holdout strategies by creditors could be successful, and further that the act of state doctrine and international comity did not necessarily protect sovereigns in the event of default.

For the remainder of the 1980s, creditor litigation proved rare. This reflected the fact that robust mechanisms supported negotiation processes in resolving debt disputes contractually. Furthermore, before the advent of the secondary debt market in the late 1980s, banks were the primary holders of distressed debt, which proved motivation not to declare a creditor in default, which was a necessary condition of litigation.

The late 1980s bought in a sea change, as creditor banks began to write off loans, and the creation of a secondary market in securitized loans allowed specialized firms, known as vulture funds, to buy discounted defaulted debt with the intention of securing a lucrative settlement. These changes
preceded a number of lawsuits around debt purchased in the secondary markets, the most significant of which was (previously mentioned) Weltover v. Republic of Argentina, finalized in 1992 (Weltover v. Republic of Argentina, 1992). The Supreme Court supported the plaintiff’s proposal that the issuance of sovereign debt on the international capital market amounted to a commercial endeavour, and that the suspension of payments would have a direct effect in the U.S. The meant that U.S courts had jurisdiction over sovereign loans or bonds issued under U.S law.

Vulture funds, or specialized distressed debt funds, formed to buy securities in distressed investments, were often established in pursuit of a particular case. CIBC v. Banco Central do Brazil (CIBC Bank and Trust Company (Cayman) Ltd v Banco Central do Brasil, 1995) was the first major litigation successfully carried out against a sovereign debtor by a vulture fund. After acquiring 1.4 billion dollars (U.S) of Brazilian long-term debt in the secondary market, the Dart family declined to participate in Brazil’s Brady deal of 1992. When the family received a favourable judgment in court, Brazil agreed to settle a portion of the past due interest and the family subsequently sold its entire debt stake at considerable profit.

What the CIBC case confirmed was that holdout strategies could be rewarding and that the so called Champerty defence (which prohibits the obtaining of debt with the principal intent of filing a lawsuit) did not hold much water. The Champerty defence initially seemed capable of challenging the modus operandi of vulture funds; that is the purchasing of debt on secondary markets at a discounted rate in order to sue for full repayment. It however continued to be rejected in most cases after CIBC. In the modern era of sovereign debt enforcement, vulture creditors have frequently secured favourable judgments and have channelled their efforts largely into to seizing attachable sovereign assets. This has meant that since 1992, the primary focus of indebted sovereign governments is concerned with preventing attachment seizure. From the perspective of the creditor, the concern is that sovereign immunity laws like the FSIA still protect many government assets from attachments, as it remains the case that sovereign assets are only deemed attachable if they are located in the U.S and employed for commercial purposes.

In the late 1990s, the possibilities for debt enforcement were further strengthened when hedge fund Elliott (Elliott Associates, LP v. Republic of Peru, 1996) offered an alternative interpretation of the pari passu clause, which almost rendered further asset searches unnecessary. Elliott contended that the clause meant that Peru would be prohibited from paying its restructured creditors without at the same time making a payment to holdouts. Supported by this argument, Elliott was able to prevent an interest payment that Peru intended to make in September 2000 via the settlement provider Euroclear. In an effort to avoid the risk of defaulting on its entire stock of Brady debt, Peru chose to settle at face value, which resulted in a lump payment to Elliot of U.S $ 58 million.
Justiciability of Economic and Social Rights

It is worth considering that at the time of the Commission on Human Rights, a small number of governments voted in favour of a resolution which specifically denied the justiciability of economic and social rights, although this was not the majority view. It does however illustrate the reality that the problem of the justiciability of economic and social rights has long been a frustration. In contemporary arrangements, there exists no agreed upon practice regarding the reach of domestic courts in adjudicating claims of alleged violations. Indeed this problem was the central concern of the Workshop on the Justiciability of Economic, Social and Cultural Rights, with Particular Reference to an Optional Protocol to the Covenant on Economic, Social and Cultural Rights, held in Geneva in 2001. Reports submitted to the Workshop, organized by the Office of the UNHCR and the International Court of Justice (ICJ), noted that domestic courts are increasingly finding themselves having to adjudicate claims relating to economic and social rights, such as the right to equality before the law, water and adequate housing. The fact of the Workshop indicates that the problem of justiciability remains unresolved, and that decisions regarding the extent to which specific rights are amendable to judicial review are often perceived as a question of political expediency rather than law. While jurisprudence pertaining to civil and political rights has been clarified by a cluster of individual cases that contextualize and refine its comprehension, economic and social rights norms have been developed at the international level largely in the absence of rights claimants.

One of the most significant of these developments was the establishing of the Limburg principals by a group of experts convening in the ICJ in Limburg, Netherlands, in June 1986. They constitute the foremost guide to understanding state obligations under the ICESCR. The principals note that although the full realisation of the rights enshrined in the Covenant can be realised progressively, the application of some rights can be made justiciable over time, contending that “a failure by a state party to comply with any obligation contained in the Covenant is, under international law, a violation of the Covenant” (UN Human Rights Committee, General Comment no 31 (80), CCPR/C/21/Rev.1/Add.13). This is however, subject to some qualifiers. In determining what constitutes a failure to comply:

…it must be borne in mind that the Covenant affords to a state party a margin of discretion in selecting the means for carrying out its objectives, and that factors beyond its reasonable control may adversely affect its capacity to implement particular rights (UN Commission on Human Rights, E/CN.4/1987/17).

The Limburg principals consider that a state can be held in violation of its obligations to the Covenant where it fails to use all available resources; it fails to promptly remove obstacles which prevent the immediate fulfilment of the right; it fails to implement without delay a right which it is required to
provide immediately; it fails to meet a generally accepted international minimum standard of achievement which it is within its powers to meet; it applies limitations to a right recognised in the Covenant; it deliberately retards or halts the progressive realisation of a right unless it is acting within a limitation permitted by the Covenant or it does so due to a lack of available resources; and it fails to submit reports as required under the Covenant.

Subsequent to the Limburg Principals, the CESCR has considered the question of justiciability in connection with the role of legal remedies in General Comment No. 9. The Committee considered that “the right to an effective remedy need not be interpreted as always requiring a judicial remedy” and further that “administrative remedies will, in many cases, be adequate”. The Committee also noted that “whenever a Covenant right cannot be made fully effective without some role for the judiciary, judicial remedies are necessary” (CESCR, General Comment 9, E/C.12/1998/24)

The Committee noted with displeasure that, in contrast to civil and political rights, the assumption is often made that judicial remedies are not essential with regard to economic and social rights, although “this discrepancy is not warranted either by the nature of the rights or by the relevant Covenant provisions” (CESCR, General Comment 9, E/C.12/1998/24). The Committee noted that it is clear “that it considers many of the provisions in the Covenant to be capable of immediate implementation” (CESCR, General Comment 9, E/C.12/1998/24), for instance articles 3, 7(a)(i), 8, 10(3), 13(2)(a), 13(3), 13(4) and 15(3). These provisions are concerned with the right to equality between men and women in the enjoyment of rights to fair wages and equal remuneration for work of equal value, to form trade unions that can function freely, to strike, to offer children and young people special measures of protection and assistance, to free compulsory primary education for all, and to freedom for scientific research and creative activity.

Furthermore, the Committee noted that it is important “to distinguish between justiciability (which refers to those matters which are appropriately resolved by the courts) and norms which are self-executing (capable of being applied by courts without further elaboration)” (CESCR, General Comment 9, E/C.12/1998/24). In clarification of this distinction, the Committee noted that, whilst the general approach of each legal system should be taken under consideration, “there is no Covenant right which could not, in the great majority of systems, be considered to possess at least some significant justiciable dimensions” (CESCR, General Comment 9, E/C.12/1998/24).

Nor is the Committee ignorant to the concerns of states; that matters pertaining to the allocation of resources have political dimensions. Nevertheless, the Committee has noted that even as the imperative to respect the competences of the various branches of government must be maintained, it should be noted that courts are already integral to a number of matters which are concerned with issues of resource allocation.
In this regard, the Committee has noted that the:

...adoption of a rigid classification of economic, social and cultural rights which puts them, by definition, beyond the reach of the courts would thus be arbitrary and incompatible with the principle that the two sets of human rights are indivisible and interdependent. It would also drastically curtail the capacity of the courts to protect the rights of the most vulnerable and disadvantaged groups in society (CESCR, General Comment 9, E/C.12/1998/24).

With regard to the self-executing nature of the provisions of the Covenant, the Committee has argued that “the Covenant does not negate the possibility that the rights it contains may be considered self-executing in systems where that option is provided for” (CESCR, General Comment 9, E/C.12/1998/24).

The Committee has further elaborated on this point, noting that in “most states, the determination of whether or not a treaty provision is self-executing will be a matter for the courts, not the executive or the legislature” (CESCR, General Comment 9, E/C.12/1998/24). So as to carry out their duties effectively in this regard, the relevant courts and tribunals ought to consider “the nature and implications of the Covenant and of the important role of judicial remedies in its implementation” (CESCR, General Comment 9, E/C.12/1998/24). This is to say that as governments are woven into court proceedings, they ought to encourage interpretations of domestic laws which build on and apply Covenant obligations. This imperative ought to be reflected in judicial training. Furthermore, the Committee has noted that:

It is especially important to avoid any a priori assumption that the norms should be considered to be non-self-executing. In fact, many of them are stated in terms which are at least as clear and specific as those in other human rights treaties, the provisions of which are regularly deemed by courts to be self-executing (CESCR, General Comment 9, E/C.12/1998/24).

Therefore, the question of whether economic and social rights lend themselves to judicial determination ought to consider two things. Neither the nature of the rights themselves, nor the terms of the ICESCR may be referred to in efforts to deny the justiciability of them. States parties to the Covenant must provide judicial remedies for alleged violations of economic and social rights whenever such measures are necessary to facilitate their enforcement. Furthermore, these remedies should exist alongside administrative ones. The classification of economic and social rights as non-justiciable is therefore tantamount to a denial of the indivisibility and interdependence of them with civil and political rights.

The lack of practical elaboration of many of these rights does not justify the claim that because of some essential or hidden trait, ESC rights, as a whole category, cannot be defined
at all. Critics claim that the content of ESC rights cannot be defined, so little effort has been invested to define their content. The lack of practical elaboration is then used to argue that ESC rights are not justiciable (ICJ, 2008, p. 16).

Despite the absence of a complaints procedure, the CESCR has made considerable effort to embed the perspective of rights’ claiming constituencies into its jurisprudence. It has focused particularly on obligations towards vulnerable groups such as indigenous peoples, women, and people with disabilities. The CESCR also adopted a procedure for hearing submissions from domestic NGOs in the context of state periodic reviews, creating essentially an ad-hoc petition procedure. The Committee has become practiced at considering the submissions of NGOs, questioning state parties regarding these concerns and drawing conclusions as to the extent to which a particular issue ought to be included in its concluding observations.

The result of this quasi-adjudicative process has been increasingly confident observations and recommendations in relation to specific legislation, actors, and governments and their agencies. The CESCR’s concluding observations represent recommendations to address particular measures or concerns considered found not congruent with articles of the ICESCR. These observations constitute substantial guidance to both governments and domestic courts and various other bodies charged with the responsibility of adjudicating issues concerning economic and social rights in the domestic context.

Furthermore, progress has been made at the domestic and regional levels, with increasing possibilities to bring forward economic and social rights claims in different institutional contexts, resulting in a more diverse jurisprudence. Economic and social rights claims are currently considered by regional bodies, including the African Commission on Human Rights, the Inter-American Commission of Human Rights, the Inter-American Court of Human Rights, the European Committee of Social Rights and the European Court of Human Rights. Also, increasingly, domestic constitutions include economic and social rights as justiciable rights, and domestic courts are considering economic and social rights claims in a diversity of legal settings. With this growing body of jurisprudence, the debate around the justiciability of these rights has been supplanted by a need to better comprehend how these rights ought to be adjudicated. Key questions are concerned with the possibility of establishing appropriate forums for adjudication which take account of different political and legal contexts, who ought to have standing to bring forward claims, what the appropriate standard of review ought to be, and how to fashion effective remedies that will deal with problems which are often systemic in nature, affecting large numbers of people in addition to the individual or group which brought the claim forward.

Therefore, the ICESCR can be implemented through proceedings before some domestic courts, administrative tribunals, international judicial and quasi-judicial bodies and other legal entities. What
directs the elaboration of economic and social rights through the adjudicating organs is the recognition that these rights impose a series of obligations (both positive and negative) upon signature parties to it, and in particular those states who have ratified it into domestic law. The responsibility of the courts and other adjudicative bodies is to determine whether the rights have been violated, either by state action, inaction, or a combination of both.

The historic vacuum of jurisprudence is gradually being filled by an expanding body of domestic case law. “Supreme court and Lower court precedents regarding health, housing, consumer and environmental rights in many countries have begun to foster further litigation in these fields, which was unknown decades ago” (ICJ, 2008, p. 16). In their interpretation of economic and social rights, courts have developed a number of tests to assess administrative or legislative action which they can determine to be reasonable, proportional or adequate. These tests were originally articulated in the Government of the Republic of South Africa and Others v Grootboom and Others (Government of the Republic of South Africa and Others v Grootboom and Others, 2001).

In Gootboom, the court found the housing policy of the state to be unreasonable as it failed to consider the needs of homeless members of the community for shelter. This principle is increasingly being reflected in jurisprudence, by either appealing to the ICESCR, national constitutions or other instruments of international law. For example, the Swiss Federal Court found that Swiss courts are entitled to enforce a ‘minimum level of subsistence’ which is applicable not only to Swiss nationals but foreigners residing in the state. Similarly “compliance with this constitutional mandate – according to the Brazilian Federal Supreme Court cannot be left to administrative discretion” (Courtis, 2009, p. 389). The Supreme Court of Argentina has ruled that the right to health, as so stipulated in their constitution and reflected in various human rights treaties, secures individuals access to medical services and “should be read as requiring health care givers to fully provide essential medical services in case of need” (Courtis, 2009, p. 390). The High Court of Kenya held that the forced eviction of peoples violated of the right to adequate housing provided for in the Kenyan Constitution, and on these grounds made an injunction which compelled the government to return land to the evictees and to rebuild community housing (Courtis, 2009, p. 391).

Increasingly, courts are scrutinising the right to health and other primary public services, particularly with regards retrogressive measures, or the disabling of institutions that already exist. The Constitutional Tribunal of Portugal held that “the abrogation of a statute which established the National Health Service breached the prohibition of retrogression and was thus unconstitutional” (ICJ, 2008, p. 32). The Tribunal found that social rights carry a duty to act, or rather, to create public institutions, such as a healthcare or education system. Where these institutions are not yet created, the Constitution can merely claim that they ought to be created, however where they are already in existence, their continued existence enjoys protection under the Constitution. It is not only
incumbent upon the state that they create the institution necessary to satisfy the delivery of the right, but that once it has been brought into existence, it cannot be expunged. The ICJ notes that:

...since the moment when the State complies (totally or partially) the constitutional respect of this right ceases to be (or to be exclusively) a positive obligation, thereby also becoming a negative obligation. The State, which was obliged to act to satisfy a social right, also becomes obliged to abstain from threatening the realisation of that social right (ICJ, 2008, p. 33).

In such a way, many jurisdictions have managed to deliver jurisprudence on economic and social rights based on Constitutional interpretation, particularly by making reference to tests of reasonableness, adequateness and proportionality (ICJ, 2008, p. 33). In the Argentine Court for example, in Asociacion de Esclerosis Multiple de Salta v Estado Nacional, (Asociacion de Esclerosis Multiple de Salta v Estado Nacional, 2003) the appellate court decision found that a regulation by the Ministry of Health which excluded treatment of multiple sclerosis from mandatory minimum health insurance plans should be overturned. In so doing, the Argentine Court reiterated the opinion of the Attorney General who proclaimed the regulation not congruent with the right to healthcare as it was so understood in international human rights treaties. In a similar fashion, the Czech Constitutional Court struck down mandatory, statutory eligibility requirements for pension benefits, holding they were unnecessary, disproportionate and contrary to the principal of equality. The statute required the potential beneficiary to file a claim within a two year time frame in order to claim a pension to support a dependent child. The court considered that, while the state could legitimately set itself the goal of properly administering public social security funding, and this could include limiting when the benefit could be claimed, the same goal could be achieved by different means that would not affect the fundamental right (ICJ, 2008, p. 37).

**Measuring Poverty**

Upon embarking on this research I had presumed that measuring instances of ICESCR violations would be a straightforward task. I discovered that the reality of this undertaking is to presume to delineate between degrees of poverty. There is a level of poverty that can be associated with debt-servicing and the ICESCR certainly, but then there is all the rest of global poverty, a by-product of the systemic failure of the global political-economic order to distribute resources in a way that is fair and environmentally sustainable. Whilst this research is concerned with one human rights instrument, and one manifestation of poverty (unsustainable debt), it also attempts to engage with the question of whether a human rights framework can make a meaningful contribution to ways of conceiving a more human-centred global-political economy broadly.
Arriving at a sense of the magnitude of global poverty requires penetrating barriers of modelling, framework and perspective. Frequently, the composition of poverty indicators reflects the moral perspective of the ideology from whence it has been bought forth, and therefore understandings of poverty are usually ideological. Neoliberal definitions of poverty for example, are understood to be a reflection of the capacity to engage in the marketplace, measured as the ability to purchase a basket of goods and services, presumed possible on just over a dollar a day.

Conceptions of poverty are also related to perceptions of wealth in societies of advanced capitalism, although until relatively recently, the amassing of the extreme wealth very rarely featured in the discourse of extreme poverty. The ideology of neoliberalism sanctions the instrumentality of the exceedingly wealthy in the eventual financial salvation of the impoverished, and so for most of its trajectory, it has not been customary to draw parallels between the stockpiling of wealth by the few on the one hand, and the increasingly abject and destitute circumstances of the great many on the other. One of the central premises of neoliberalism is that in facilitating the rich to get richer the poor will somehow become less poor. Until very recently, the widespread acceptance of this paradox might well be considered its greatest achievement. Dienst notes that the more accurate analysis is that while the rich accumulate on one end:

...they insist that the poor do not necessarily get poorer, that’s only natural, so that one may express a cautious hope that some of the poor might sometimes become somewhat less poor than they used to be. Indeed, the only remaining moral justification of the current system hangs by that thread: as long as it can be argued that the poor do not always and everywhere get poorer, the rich should go ahead and keep getting as abundantly rich as they can, in good times and in bad (2011, p. 34).

Poverty indicators are usually represented statistically, and certainly this is appropriate, however in another sense they are used as a way to graph and table a situation that’s greater component is experiential. The conditions of poverty are facts certainly, but they are also something that must be endured. In this sense poverty is best described as inflicted. The CESCR makes the point that:

...quantitative indicators – information expressed as numbers, percentages or ratios – offer a statistical snapshot of a situation by providing a measure of “how much”, “how many”, “to what extent” or “what size”. They demonstrate the level something is at, the direction it is headed and how far it is from a certain goal or target (CESCR, 2012b, p. 6).

What they do not measure is what the experience of poverty feels like, or the extent of the suffering it visits on those who survive, or in fact do not, survive it.

What has been understood from the data is that the experience of entrenched poverty tears great holes of lost potential, shortened life expectancy and avoidable violence into the fabric of a would-be
fulfilled life. Sen’s (1985) ‘Capabilities Approach’, which focuses upon the moral significance of the capability of an individual to achieve “the kind of lives they have reason to value” (1985, p. 22). Sen’s approach is distinct from more traditional conceptualisations of poverty, which pivot on understandings of utilitarianism, subjective well-being, or access to resources, as the chief determinates of a good life. According to Sen, the ability to live a good life is defined with respect to a set of ‘beings and doings’ such as the possibility to experience good health or engage in meaningful relationships (Sen, 1985, p. 12-33).

The Capability Approach has been championed by the UNDP and more broadly in development discourse as an alternative to myopic understandings of growth as a reflection of GDP per capita and poverty as a reflection of that. Sen has offered a conception of poverty as a situation of deprivation with obstructs the possibility of a good life. This has encouraged a reconsideration of conceptions of development as capability expansion also.

The focus of Capability Approach has attracted not only development theorists but scholars from other disciplines, and has been interpreted into approaches to gender justice and normative theory. Building on Sen’s Capabilities Approach, Nussbaum (2003) has pioneered a capability theory of justice. Nussbaum contends that principles of justice can be arrived at by interpreting the capabilities approach into a list of ‘key capabilities’ that are essential to each citizen to achieve a flourishing life in a minimally just society. This list includes things such as imagination, emotions, play and bodily integrity. Nussbaum contends that these, and others, ought to be imbedded into national constitutions and guaranteed to all up to a certain point (2003).

Further to discussions and conceptions around poverty, Banerjee and Duflo refer to the philosopher Peter Singer who has described:

...the moral imperative to save the lives of those we don’t know. He observes that most people would willingly sacrifice a $1000 suit to rescue a child seen drowning in a pond and argues that there should be no difference between that drowning child and the 9 million children who, every year, die before their fifth birthday (2011, p. 5).

Banerjee and Duflo attempt to address this problem of proximity and pose a multitude of interesting questions, the most striking of which is “do we know effective ways to help the poor? “(Banerjee & Duflo, 2011, p. 7). Not really, is their surprising answer, at least not demonstrably so in policy design and implementation. In fact they suggest that we do not even really know the poor. We may know something about where they are commonly found, even their living conditions, but this does not explain their choices, behaviour or challenges. They argue that the problem of poverty is more complex than poverty traps, micro-finance or the structure of aid and contend that the reason so many anti-poverty initiatives fail to satisfy their expectations is because of what they have termed the
three I’s:

Ideology, ignorance, and inertia – on the part of the expert, the aid worker, or the local policy maker, often explain why policies fail and why aid does not have the effect that it should” (Banerjee & Duflo, 2011, p. 16).

This research considers that IMF and World Bank policy intervention into poor countries, in this regard, is a case in point.

Banerjee and Duflo’s contention that the poor are unpredictable has broader implications for assumptions imbedded in economic modelling perspectives generally. They contend that the poor do not behave in the manner analysts would expect or even prefer, and they express agency in often surprising ways, even where the possibility for choice is constricted. Banerjee and Duflo note that:

Most people living with less than 99 cents a day do not seem to act as if they are starving. If they were, surely they would put every available penny into buying more calories. But they do not.....In Udaipur, for example, we find that the typical poor household could spend up to 30 per cent more in food than it actually does if it completely cut out expenditures on alcohol, tobacco, and festivals. The poor seem to have many choices, and they don't elect to spend as much as they can on food (Banerjee & Duflo, 2011, p. 22).

In this recognition that the poor behave unpredictably, assumptions that economic modelling makes about the behaviour of impoverished people are knocked badly out of alignment. Refuting not only the presumption that individual agents make rational choices, but any sweeping conclusions, Banerjee and Duflo favour instead the identification of small patterns that have potential to inform evidenced based policy. In contrast to the themes of paternalism and imperialism that often plague dysfunctional anti-poverty strategies, Banerjee and Duflo urge their audience to “Think Again. Again” (Banerjee & Duflo, 2011, p. 1). In fact in the concluding passages of their book they note that:

...economists (and other experts) seem to have very little useful to say about why some countries grow and others do not. Basket cases, such as Bangladesh or Cambodia, turn into small miracles. Poster children, such as Cote d’Ivoire, fall into the “bottom billion.” In retrospect, it is always possible to construct a rationale for what happened in each place. But the truth is we are largely incapable of predicting where growth will happen, and we don’t understand very well why some things fire up (Banerjee & Duflo, 2011, p. 267).

Banerjee and Duflo conclude that there are indeed ways to relieve the worst excesses of poverty, but that the key lies in being able to conceive of the agency of those in poverty in ways unencumbered by what modern economics would have us suppose about its anatomy.

In understanding conceptions of poverty and human rights, this research also considers the work of
Pogge (2002), who contends that the responsibility to prevent against violations of human rights is collective. He makes the claim that a more just economic system is more than only desirable, but is a moral imperative. He bases this argument on five claims, beginning with the contention that human rights are moral claims on the organisation of society and that citizens are collectively responsible for the way their society is organised. From this it follows that human rights make demands on citizens, and that the requirements of these demands mean that ultimately citizens are responsible for re-organising their own societies. In the event that they do not, they become human right violators.

Applying this logic to an international context, as Pogge does, the citizens of economically prosperous western countries are violators of the human rights of citizens of more economically deprived countries. This understanding of culpability would have clear consequences for international policy on debt relief, which would suggest that it is a responsibility of good government. Pogge’s argument suits well the contention of this research, as it circumvents debate around the economic or political viability of debt relief. It also radically transforms traditional conceptions of human rights violations, and opens a space for the policies of developed countries to be more deeply scrutinized for their responsibility in creating and maintaining economic impoverishment in other areas of the world.

In any consideration of poverty as a human rights violation therefore, Pogge’s work is instructive. Pogge argues that human rights endow upon individuals a moral claim to protection, not just from their own governments, but from the governments of foreign states. Pogge contends that negative duties (the requirement not to actively cause harm) means that citizens in poor circumstances have moral claims against those who impose upon them detrimental institutions or arrangements, especially given that “rules governing economic transactions are the most important casual determinant of the incidence and depth of poverty in the modern world” (Pogge, 2007, p.26). In this regard, an institution, or set of institutional arrangements, that “foreseeably produces a reasonably avoidable excess of severe poverty . . . manifests a human rights violation on the part of those who participate in imposing the order” (p.30). This means that those who continue to sanction or insist upon an order or program that will foreseeably produce severe poverty commit human rights violations. In the context of this, Pogge advocates for global institutional reform to bring about a more “even handed institutional design” (2007, p. 41) by achieving a greater degree of balance between citizens of poor countries and citizens of rich countries.

Poverty and the Human Rights Framework

In 1948 the Universal Declaration of Human Rights established poverty as a human rights issue. This view has been affirmed subsequently at various intervals by the UN and its related bodies, including
the General Assembly and Commission on Human Rights. In 1974, during McNamara’s Presidency of
the World Bank, he defined poverty as “a condition of life so degraded by disease, illiteracy,
malnutrition and squalor as to deny its victims basic human necessities” (McNamara, 1973, cited in
Holden, 2013, p. 84).

Although poverty is not mentioned explicitly in the ICESCR, it is certainly its underscoring theme. The
right to work, to an adequate standard of living, to housing, food, health and education, all which lie
at the heart of the ICESCR, are rights which almost always languish unfulfilled and out of reach where
there is long-term and entrenched poverty. For this reason, the eradication of poverty is championed
as one of the CESCR’s primary objectives, and has become a firm fixture in the dialogue between the
Committee and state parties:

In light of the experience gained over many years, including the examination of numerous
state parties’ reports, the Committee holds the firm view that poverty constitutes a denial of
human rights. The Committee regrets, however, that the human rights dimensions of
poverty eradication rarely receive the attention they deserve (UN Sub-Commission on the

Nor is the Committee’s reference to poverty as a human rights issue intended to be exclusive to an
understanding of the ICESCR, but rather an understanding which motivates the deepest aspirations of
all human rights instruments. The Committee concedes that the phenomenon of poverty is difficult to
comprehensively describe, but considers that:

...while poverty raises complex multi-sectoral issues that are not amenable to simple
solutions, the application of the international human rights normative framework to these
issues helps to ensure that essential elements of anti-poverty strategies, such as non-
discrimination, equality, participation and accountability, received the sustained attention
they deserve (UN Sub-Commission on the Promotion and Protection of Human Rights, 1999,

The process of identifying measures that can be taken to remove structural obstacles to the
eradication of poverty is inherently laborious. Whilst the Committee references unsustainable foreign
debt as an impediment to the eradication of poverty, it also notes the demoralising impact of the
widening divide between rich and poor, the absence of fair and multilateral trade, and the structure
of the international financial system. Faced with these obstacles, the national anti-poverty strategies
of some states have a poor forecast for long term success. In acknowledgement of this the
Committee notes Article 28 of the Universal Declaration of Human rights (217 A {III}) (which included
the right to a social and international order that enables human rights to be realised) as well as the
declaration on the Right to Development (A/RES/41/128).
In order to establish where servicing debt re-payments are violating the enjoyment of economic and social rights by individuals and communities, this research has attempted to highlight the places where poverty, human rights and debt converge. Whilst the UN and its representative bodies have gone to great lengths to establish poverty as a human rights issue, it would be almost impossible to cite general poverty as a violation of the ICESCR in particular, as this would stretch the scope of the Covenant so long as to empty it of any practical meaning. The problem of world poverty is ultimately too big to address in its entirety with the Covenant alone, and nor were the drafters of it ignorant to this reality.

The duty of progressive realisation allows for the circumstance that developing countries are simply unable to meet their obligations under the ICESCR in full immediately, whilst still requiring that every state move as expediently as possible, subject to the limitations of maximum available resources to do so. This is not to argue that poverty is acceptable, but rather that some poverty is unavoidable, particularly in the short term. The abstract nature of this problem is one reason why this research includes an assessment of the usefulness of the Beitz approach to human rights, which has broader practical applicability in addressing questions of poverty and inequality than the ICESCR alone could hope to accommodate. As the CESCR notes:

> While the common theme underlying poor people’s experiences is one of powerlessness, human rights can empower individuals and communities. The challenge is to connect the powerless with the empowering potential of human rights. Although human rights are not a panacea, they can help to equalize the distribution and exercise of power within and between societies (UN Sub-Commission on the Promotion and Protection of Human Rights, 1999, E/CN.4/2000/2 E/CN.2/1999/54).

### Debt and Violations of the International Covenant on Economic, Social and Cultural Rights

The previous discussion has considered the intersection between poverty and human rights in general, and it is useful to further focus the discussion to consider the requirement to service unsustainable debt and violations of specific articles of the ICESCR, before assessing the tools and methods currently available for measuring violations. In recent years, tools of measurement and assessment have become more sophisticated, nevertheless a discussion of each article is relevant to focussing the usefulness of the Covenant as an instrument of discernment.
Article 3 of the ICESCR states that, “state parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant” (United Nations, Treaty Series, vol. 993, p. 3).

Estimates of the UNDP indicate that 70% of the world’s poor are women (UNDP, 1995, p. 4). In conditions of poverty, the woman and girl child receive less of everything than their male counterparts. Where food is scarce, it is disproportionately allocated to males over females. Where educational opportunities are few, they are disproportionately delegated to boys rather than girls. Women typically shoulder more of the workload than men, including the unpaid labour of subsistence farming and nurturing the young, old and infirm. As Beitz notes:

...the reason to consider the rights of women to be a subject suitable for a dedicated treaty and implementation process is the historical fact that discrimination against women has been such a pervasive feature of most human societies that special measures are needed to eliminate it (Beitz, 2009, p. 188).

Typically women’s poverty results from a combination of the absence of economic opportunity and individual autonomy, lack of access to credit, land ownership and inheritance, lack of access to education and support services, and exclusion from the decision-making process. The push for privatization of basic services which include water, health and education therefore, “puts an additional burden on poor women, who must already care for and sustain the family” (Adaba et-al., 2003, p. 3).

Although poverty affects households as a unit, the gender division of labour in the household means women bear a disproportionate burden, attempting to manage household consumption and production under conditions of increasing scarcity. This is particularly true for women living in rural households. As noted in a report produced at the United Nations Fourth World Conference for Women at the Platform for Action in Beijing in 1995:

...in addition to economic factors, the rigidity of socially ascribed gender roles and women’s limited access to power, education, training and productive resources, as well as other emerging factors that may lead to insecurity for families are also responsible (United Nations Fourth World Conference on Women, 1995, para 3).

The report goes on to note that the “failure to adequately mainstream a gender perspective in all economic analysis and planning and to address the structural causes of poverty is also a contributing factor” (United Nations Fourth World Conference on Women, 1995, para 4).

Frequently social welfare systems do not take adequate account of the specific conditions of women, failing to recognise the gendered impact of a scale back on social spending and broader trade and
economic policies. Indeed one of the key criticisms of the World Bank’s PRSPs has been the failure to compile sex-disaggregated data.

Often working in sectors prone to economic shocks or outside the formal economy, women are vulnerable to insecurity in the workplace. Women who do work in the formal wage economy are often exposed to the greatest environmental and safety risks, frequently without the security of basic labour protections. Adaba et-al note that many of these types of jobs are “located in Export Processing Zones, where women are increasingly employed in textiles and electronics in exploitative and harrowing working conditions, without basic worker’s rights and provisions” (2003, p. 3). Social security systems are often based on the principle of continuous remunerated employment and frequently women experience interrupted patterns of employment. Where women and girl children suffer entrenched poverty, they experience greater risk of exploitation in illegal prostitution or sexual slavery.

The increased proportionality of the number of women in poverty as compared with the number of men has occurred over the past decade and has been termed the ‘feminization of poverty’. World Bank figures indicate that “across 59 developing countries, between 200 000 and 400 000 infants, (mostly girls) will perish during each year of the next several years as an indirect consequence of the financial crisis within the G8 nations” (Khalaf, 2009, p. 12).

Thematically interlocked with Article 3, is Article 10, which recognises that:

...special protection should be accorded mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits (United Nations, Treaty Series, vol. 993, p. 10).

According to the WHO, due to poorer nutrition, hard labour, lack of professional healthcare and unsanitary living conditions, women in the developing world account for 99% of maternal deaths worldwide (WHO, 2014, para 2). This is to say nothing of the impact of poor sanitation on higher child mortality rates and general health. When compared with developed economies, the risk posed to women by childbirth or maternal complications in developing countries is significantly higher. WHO statistics indicate that “a woman’s lifetime risk of maternal death – the probability that a 15 year old woman will eventually die from a maternal cause – is 1 in 3800 in developed countries, versus 1 in 150 in developing countries” (WHO, 2014, para 4). The past twenty years has seen little improvement, as “between 1990 and 2010, the global maternal mortality ratio (i.e. the number of maternal deaths per 100 000 live births) declined by only 3.1% per year” (WHO, 2014, para 6).

Central to the argument of this research is the understanding that the benefits of liberating funds intended for debt-servicing are both quantifiable and transformative. Examples include Bolivia and Mauritania, which serve to demonstrate that increases in resource allocation away from debt

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servicing and towards health spending have tangible positive impacts.

Before debt relief, only around 40% of births in each country were attended by a health professional. Now it is nearly 60% in Mauritania and 70% in Bolivia, thus greatly improving infant and maternal mortality rates (Williams, 2008, p. 26).

After debt cancellation in Uganda, governments were sufficiently resourced to abolish primary school fees, which not only caused “a doubling of school enrolments, it also drastically decreased inequality between boys and girls. Before debt relief there were 20% fewer girls than boys in school, now numbers are almost even” (Williams, 2008, p. 25).

This highlights not only how funds liberated from debt servicing redress violations of the duty of non-discrimination, but also the right to education and healthcare. The UN has made clear in post-crisis analysis that if internationally agreed upon health goals are to be met, additional funding must be made available. Towards these ends:

...the G8 reaffirmed its commitment to improving health of mothers and young children in the developing world in its 27 June 2010 Muskoka Initiative on Maternal, Newborn and Child Health, while the United Nations Global Strategy for Women's and Children's Health was launched at the MG summit (Williams, 2008, p. 26).

The Association of European Parliamentarians with Africa (AWEPA) estimated in 1999 that, were adequate medical care to be available and accessible, “the lives of 300 children and 30 women who die in childbirth could be saved every day” (AWEPA, 1999, para 3). AWEPA notes in their report that, in response to this assertion, a World Bank representative declared in a special parliamentary session convened on the issue, “there was no question of the Bank going beyond the measures previously announced since that was the maximum that the creditors can bear financially” (AWEPA, 1999, para 4). Limitations on what women and children could be expected to bear did not feature as a subject of consideration.

The right to education is not just protected for girl children under Article 3, but for all people under Article 13.1 which states that:

State Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms (United Nations, Treaty Series, vol. 993, p. 3).

There are innumerable examples linking problem debt and its effects on the provision of the right to education. Raffer notes that as a result of SAPs “school fees increased dropout rates in most countries, particularly amongst girls” (Raffer, 2010, p. 122). In Tanzania, debt cancellation allowed for
the redirection of resources into education which resulted in the abolition of school fees. These changes saw “the number of children enrolled in primary school rise to 7.5 million in 2005, from 4.4 million in 2000” (Williams, 2008, p. 25). Furthermore, “teacher numbers doubled in three years in Tanzania: over 62,000 teachers were recruited or retrained; primary school fees were abolished in Ghana, Malawi, Tanzania, Uganda, Zambia and in rural areas of Benin” (Williams, 2008, p. 26).

The right to education is currently being interpreted through the courts internationally not only through the ICESCR, but in myriad other ways. The African Commission on Human and People’s Rights, when examining the forced closure of secondary schools and universities in the former Zaire, held that such an occurrence constituted a “serious and massive” (ICJ, 2008, p. 32) violation of the right to education under the African Charter on Human and People’s Rights.

Article 9 of the Covenant recognises the “right of everyone to social security, including social insurance” (United Nations, Treaty Series, vol. 993, p. 7).

As has previously been argued, cut-to-grow economic policy measures create unemployment, an outcome particularly perilous in countries that have insufficient social welfare support to accommodate the needs of unemployed persons. SAPRIN notes that “long-term human costs have been the outcome of policies premised on a distorted calculus that considers investments in the social sector as subsidies that can be eliminated” (SAPRIN, 2002, p. 169). This requirement to cut welfare expenditure to service debt is in direct opposition to the instructions of the CESCR Comment 2 (E/1990/23 annex III) which notes that, whatever externalities may be, the obligations under the Covenant continue to apply, and are even more important during times of economic contraction. Where the debt servicing imperative is removed, this dynamic is dramatically transformed, as according to World Bank data, “countries that received multi-lateral debt cancellation increased their social spending by an average of 45% between 1999 and 2003” (Williams, 2008, p. 25).

Article 11.1 states that “State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions” (United Nations, Treaty Series, vol. 993, p. 8)

These most basic rights enshrined in the Covenant, to shelter and to food, are likely the most broadly violated by the debt-servicing imperative. When Malawi suffered a drought that dramatically diminished food supply while participating in the HIPC program, the Malawi government was forced to resort to borrowing from domestic banks in order to ensure that its citizens avoid starvation. The IMF response was to declare Malawi ‘off-track’ from the HIPC program (Williams, 2008, p. 22). Similarly in Haiti, prior to the debt cancellation that followed the humanitarian crisis caused by four catastrophic hurricanes in 2008, the government attempted to abide by rigid policy guidelines even when:
...nearly 80% of the population live on less than $2 a day and many do not have access to basic services. For example, fewer than one quarter of children aged between 6-12 living in rural areas are enrolled in school, the price of basic necessities continues to increase, and people cannot afford enough to eat (Williams 2008, p. 22).


To this point broadly, Banerjee and Duflo (2011) have questioned the principal that the market allocation of resources is a function of scarce resources and unlimited wants. The constraints of market allocation are often explained in this way, however even in terms of food, the most basic resource, this seems counter-intuitive. Resources may be limited but not necessarily scarce.

At least in terms of food availability, today we live in a world that is capable of feeding every person that lives on the planet. On the occasion of the World Food Summit in 1996, the FAO estimated that world food production in that year was enough to provide at least 2 700 calories per person per day (Banerjee & Duflo, 2011, p. 25).

This being the reality, the failure to facilitate the availability to all people a sufficient caloric intake to survive represents a violation of human rights, not only for the affected individual but against the life chances for generations of individuals who are yet to be conceived. As Banerjee and Duflo note:

The impact of under nutrition on future life chances starts before birth [...] To cite just one example, in Tanzania, children who were born to mothers who received sufficient amounts of iodine during pregnancy (because of an intermittent government program of distributing iodine capsules to would-be mothers) completed between one-third and one-half year more schooling compared to their younger and older siblings who were in utero when the mother was not getting these capsules (2011, p. 32).

Satisfying the right to food for all peoples is conceivable would there the political will. In contemporary political and economic arrangements however, the right to food places second to the right of the market to allocate resources according to its own instincts. This often paradoxically means that a violation of the right to food is described in the nomenclature of markets as fair and efficient. A failure to secure for all individuals the right to food precipitates the loss of other rights, as Gutman notes, “starving people are denied their human agency. They are also being denied their dignity, and they are being degraded. They are not being treated as agents with a human life to lead” (Gutman in Ignatieff, 2003, p. xii).

The CESC R clearly recognises the adverse effects of the IMF and World Bank policy requirements, directly addressing the issue in General Comment 4 (E/1992/23), warning that “international financial
institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the rights to adequate housing”. For countries like Malawi and Haiti this directive has simply been ignored. The requirements of conditionality have meant that in efforts:

...to raise foreign exchange, developing countries are forced to sell more of their resources at reduced rates, thereby depleting non-renewable resources for use by future generations. Capital that could have been used to build factories and provide jobs is now sent abroad, as a result, the problems of unemployment, and underemployment will only get worse in poor countries (Ferraro & Rosser, 1994, p. 335).

Even the World Bank and IMF have been forced to acknowledge that the knock-on effect of austerity and cuts to social sector expenditure is the collapse of vital infrastructure. The World Bank publication the Global Monitoring Report 2006, noted that “in too many countries, infrastructure is crumbling. Urgently needed investment to modernize water, sanitation and transportation facilities has proven unavailable” (Raffer, 2010, p. 139). Raffer points out that for “both rural and urban poor in many low-income countries, the gap in access to basic infrastructure is still widening. The US crisis is likely to aggravate this problem” (Raffer, 2010, p. 169).

Article 12.1 of the Covenant states that “State Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (United Nations, Treaty Series, vol. 993, p. 8).

The Covenant stipulates that the right to health contains interrelated and essential elements, including the availability of health care facilities such as goods, programmes and access to medical treatment, medication or vaccination. Monitoring the provision of these can provide a base measurement against which it can be ascertained the extent to which the right to them is being progressively provided for. In this way, courts have considered the previous conduct of a state in order to ascertain the extent to which a right has been breached, if at all. This would prevent the state from arbitrarily cancelling the provision of a vaccine or failing in its duty to provide medical care to an infant.

In Zambia, a request to the IMF supervisory body to employ more healthcare workers was met with refusal, even when the Canadian government offered to bankroll the exercise for a five year period. The IMF argued that doing so would have resulted in the Zambian government exceeding capped spending ceilings. Instead, Zambia was instructed by the IMF to introduce user fees for health and education in order to qualify for debt relief (Christian Aid, 2008, p. 12). In 2004, Ecuador spent 12% of its GDP servicing debt repayments and only 2.2% on healthcare and 1% on education. In 2005, the Ecuadorian government attempted to capitalise on an oil profits windfall by investing in social sector spending, however the IMF disapproved of the prioritisation of this above debt service repayments,
and in response:

...the World Bank delayed and ultimately cancelled an already approved loan as a result of what is described as ‘policy reversal’. It is absurd and disgraceful that pro-poor and democratic policies are being vetoed by organisations supposedly interested in reducing poverty and promoting democracy” (Christian Aid, 2008, p. 13).

Low spending on health care is common to most of the world’s poorest and most indebted countries. Sub-Saharan Africa, home to more than 25% of the world’s communicable disease concentration, only has 1.3% of the world’s trained health workforce. Its total debt service for 2005 amounted to more than U.S $23 billion (Williams, 2008, p. 7). In the Philippines, there is “one doctor to every 26,000 people, and half the population has no access to healthcare” (Williams, 2008, p. 8). Research has also indicated that adjustment measures have negatively impacted efforts to combat HIV-AIDS. The role that the IMF plays in “signalling to other donors that a country is a ‘safe investment’ actually blocks poor countries access to much needed finance for healthcare to tackle the AIDS epidemics that many of them face” (Williams, 2008, p. 22). Indeed, “many recent WTO rulings are in contradiction to social and environmental principals. Human rights enforcement bodies have also called attention to actual and potential contradictions between WTO Agreements and human rights norms” (Adaba et al., 2003, p. 3).

Noting in its General Comments on the implementation of the Article 12, the CESCR contends that:

State Parties have to respect the enjoyment of the right to health in other countries, and to prevent third parties from violating the right in other countries, if they are able to influence these third parties by way of legal or other political means, in accordance with the Charter of the United Nations and applicable international law (CESCR, General Comment 14, E/C.12/2000/4).

Therefore, where a state party who is a signature to the Covenant demands that other countries prioritise debt servicing (or indeed comply with obligations to WTO agreements) over the fulfilment of core obligations to the Covenant, they are failing in their obligations to Article 12, with regard to respect for the enjoyment of the right to health in other countries. The political or legal means by which they might influence countries could be conceived of as supporting or providing adequate debt cancellation, or similarly, not to oppose debt repudiation. Furthermore, in General Comment 14, the Committee asserts that:

State parties have an obligation to ensure that their actions as members of international organisations take due account of the right to health. Accordingly, States parties which are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should pay greater attention to the
protection of the right to health in influencing the lending policies, credit agreements and international measures of these institutions (CESCR, General Comment 14, E/C.12/2000/4).

Thus where it can be established that governments of poor countries, in capitulating to the policy requirements of IFIs, are unable to fulfil their obligations to Article 12, all other state parties to the Covenant are required to take measures in assisting them to redress this failure.

It might also be argued that a state can be expected to defend itself for not repudiating debt where it does not have sufficient available resources to meet its obligations under Article 12. The Committee notes in General Comment 14 that:

...if resource constraints render it impossible for a state to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above (CESCR, General Comment 14, E/C.12/2000/4).

It might be considered that every effort includes (but is not limited to) the re-appropriation of funds intended for debt servicing, and that where a state has not repudiated its debt in order to redirect funds to the provision of healthcare with respect to Covenant guidelines, it is by omission in violation of its obligations.

By these standards then, ICESCR violations by governments of poor countries are countless and usually interdependent. Whilst it is conceivable to do so, it is not especially desirable to isolate any particular violation as more injurious than another. The rights illuminated in the Covenant are intended to seen as indivisible and interrelated, and the violations tend to unfurl in an indivisible and interrelated manner. For example in Mozambique:

...70% of the populace lives below the poverty line. 60% do not have access to health services. 78% of women are illiterate. 70% of the population does not have access to drinking water. Mozambique spends three times more on foreign debt servicing than it does on health and education” (AWEPA, 1999).

In order to qualify for debt cancellation, in July 1999 the government was obliged to further increase the cost of healthcare. More disturbing still is that when cancellation measures came into effect Mozambique was still required to repay up to U.S $ 100 million in debt-servicing a year.

Monitoring International Covenant on Economic, Social and Cultural Rights Violations
Monitoring and measuring instances of violations of the ICESCR is both straightforward and complex. Whilst identifying a violation (as discussed in the above section) may be simple enough, variations in interpretation and degrees of leniency muddy the waters. For human rights groups, the traditional method of tracking human rights violations has been “events-based monitoring” (CESR, 2012a, p. 1). This consists of an analysis of the facts of an individual case to ascertain the extent to which a right has been violated and by whom. Where both the perpetrator and the victim of the violation are readily identifiable, the process is relatively uncomplicated, and indeed:

…early efforts to monitor ESC rights continued to focus on identifying a specific violation in relation to a negative or immediate obligation (for example when there has not been an unlawful forced eviction). However such a ‘violation approach’ is less equipped to identify the multidimensional factors and multitude of actors that often determine whether social and economic policies fulfil ESC rights or lead to ESC rights deprivations (CESR, 2012a, p. 6).

This speaks to the problem of whether, and by what means, it is possible that economic, social, and cultural rights can be considered meaningful in application in individual circumstances.

In the discourse of development, there has long existed indexes via which to measure progress (or lack thereof) towards the fulfilment of economic and social rights and the MDGs. The most commonly referenced is the UNDP Human Development Index and its more modern extrapolations, the Gender Inequality Index and the Multidimensional Poverty Index. These indicators are designed to reveal a more comprehensive and nuanced understanding than can be revealed through the lens of GNP and GNI indicators. Similarly, Social Watch’s Basic Capabilities Index, collates basic social indicators to offer an alternative, non-monetary measure of poverty, and Transparency International’s Corruption Perceptions Index combines expert assessment with the opinion surveys to give an overview of transparency and openness (or lack thereof) in a country.

More recently a growing scholarship has emerged supporting the formulation of standardised human rights indicators. In 2006, the UN Office of the High Commissioner for Human Rights presented a background paper “on how quantitative data could be used to make assessment of states’ performance more streamlined, transparent, temporally and spatially comparable, and effective” (CESR, 2012a, p. 7). It proposed a three pronged approach to analysis, combining structural indicators, process indicators and outcome indicators. Structural indicators refer to treaty ratification and other legal or institutional measures undertaken to facilitate the progress of economic and social rights to fulfilment. Process indicators connect public policy initiatives to their realisation, and outcome indicators assess the extent to which they have been realised for both the individual and the broader society in general.
Accompanying this initiative, the CESCR has continued to clarify the remit of the Covenant and guide states in their understanding of it through what it has called the 4As criteria, or the AAAAQ framework. The four As, and Q, represent Availability, Accessibility, Acceptability, Adaptability and Quality. Government programmes should be designed therefore to better improve the AAAAQ of services pertinent to the realisation of ESC rights:

'Availability' requires that goods or services be available in sufficient quantities. 'Accessibility' requires that necessary goods (such as food or medicine) or services (such as healthcare or education) are both physically and economically accessible to all, without discrimination. 'Acceptability and adaptability' mean that the necessary goods and services must be culturally and socially acceptable and adapted to the local context and 'quality' means that they must be appropriate an adequate in standard and safety (CESCR, 2012a, p. 5).

However, comprehensive the framework, it has had limited practicability. In fact in a lecture given in 2012, former Special Rapporteur Philip Alston referred to the AAAAQ framework as “pretty silly stuff to be honest” (Alston, 2012). Whilst Alston’s assessment is perhaps strident, certainly the problem of quantifying violations of economic and social rights goes to the heart of “vexing questions of content, criteria, and measurement which lie at the heart of the debate over ‘justiciability,’ yet are seldom raised or addressed with any degree of precision” (Denis & Stewart, 2004, p. 465).

Nevertheless, the OHCHR framework has clarified some of the more ambiguous terrain. If nothing else, conceptualising development indicators as something that ought to be directly linked to human rights norms and standards is forward leaning. One of the key features of the framework is that it acknowledges that socio-economic indicators, which determine the extent to which individuals can live in dignity, might be used as human rights indicators, “for example when disaggregated by gender, ethnicity, race, religion, nationality, birth, social origin and other relevant distinctions socio-economic indicators may provide pointers to uncover discrimination and inequality” (CESR, 2012a, p. 7).

Perhaps more impressive than this is the effort to establish a link between measurements of human rights compliance with assessments of the social and economic policies and programmes within the state, both in conduct and result. This sets a clear distinction between development indicators and human rights indicators, where the tendency is to perceive of them as interchangeable.

Other international actors seeking to contribute to how violations of economic and social rights can be identified and quantified have picked up where the OHCHR framework has left off. The Inter-American Commission has made reference to the framework in tailoring their procedures for reporting under the Protocol of San Salvador, Article 19 (A-52). Parallel to this, the Economic and Social Rights Working Group of the African Commission on Human and People’s Rights is also in the process of formulating a reporting framework for monitoring and regulating economic and social
Increasingly utilized in the quest for more accurate methods to evaluate the extent to which government policies and programs adhere to human rights norms and standards, are Human Rights Impact Assessments (HRIA). HRIAs have proved useful in dialogues around corporate social responsibility, assessing the impact of business activities and trade and investment agreements on human rights, and advanced of proposals on how to respond to and prevent violations.

Following the work of former Special Rapporteur Paul Hunt, who first introduced the OHCHR’s structure, framework, process outcome, (specifically focussed on the right of everyone to enjoy the highest attainable standard of physical and mental health) individual mandate holders have continued to pioneer the measurement indicators of specific rights.

For example, the efforts of the former Special Rapporteur on the Right to Education, Katarina Tomasevski have fed into the Right to Education Project, an initiative that uses the ‘4A criteria’ to map out, develop, and apply a disaggregated list of indicators on the right to education (CESR, 2012a, p. 8).

Civil society groups have also contributed to the efforts of UN agencies, crafting specific indicators for individual sectors such as housing, food and water. Although the right to water is nowhere decreed as a specific right, the Committee has noted that it can reasonably be derived from other rights (Alston, 2012). This movement to clearer and more useful human rights indicators converges with the awareness that the MDGs reach their expiry in 2015, and therefore new ways to track developments in levels of poverty and inequality are timely.

For example, the former independent Expert and current Special Rapporteur on access to safe drinking water and sanitation, Catarina de Alburquerque, has engaged in inter-agency efforts to employ human rights indicators to better track progress on the rights to water and sanitation and to address the gaps in the MDG framework, with a view to incorporating these indicators in the development agenda post 2015 (CESR, 2012a, p. 8).

In spite of these efforts to better articulate and clarify violations of economic and social rights, on their own indictors are not comprehensive tools of assessment. In order to describe progress towards fulfilment of economic and social right accurately, indicators need to be contextualised in a timeframe, in order to account for the linear nature of advancement. The CESR contends that commonly utilized benchmarks do not accurately describe the relationship between the states expected performance and its level of development over time. In order to navigate this problem, it has proposed a more sophisticated method for:

...setting benchmarks that estimates obligations for progressive realisation by using the ‘achievements possibilities frontier’ (APF). The APFs reflect the highest level of enjoyment of a right ever historically achieved measured against a particular level of economic
development, using the proxy GDP per capita for available resources (CESR, 2012a, p. 9).

This approach links the concepts of progressive realisation and maximum available resources with economic performance and development over a nominated time frame, in recognition that what constitutes maximum available resources is subject to change as the level of growth and development in a given region changes.

Furthermore, recent development have focussed the tools used to assess the extent to which a state is deemed to be employing maximum available resources, although given that the Covenant itself is vague on the specifications of this measurement, quantifying it is not without challenges. Through the efforts of civil society groups and NGOs such as the International Budget Project (IBP), Fundar (centro de análisis e investigación) and the International Human Rights Internship Program (IHRIP), some progress has been made in bringing tools of budgetary analysis to the question of maximum available resources, looking not only at government expenditure but economic policy in general, and the manner in which it is impacted by the geo-political environment within which it operates. In looking at government expenditure through the prism of budgetary analysis, it is possible to assess the extent to which resource allocation is efficient and fair in the context of economic and social rights. This is done predominantly by:

...calculating allocation or expenditure ratios on ESC rights comparing them to national or international benchmarks, conducting ‘benefit incidence’ analysis to identify which groups are benefitting from public expenditures, or using Public Expenditure Tracking Surveys (PETS) to ensure accountability for actual expenditures (CESR, 2012a, p. 10).

In an inverted approach, there have also been attempts to cost the level of government spending that would be required to implement the necessary policies to realise economic and social rights. Taking this one step further, attempts to assess the costs of failing to meet human rights obligations have also proved interesting. This cost can not only be represented in budgetary form, but also the opportunity cost of failing to meet economic and social rights minimum standards on education, food and healthcare, in terms of long term implications for the individual and society. Budgetary analysis of this nature can help to clarify the extent to which budgets are “accessible, transparent and effective” (CESR, 2012a, p. 10), illuminating the ways in which competing factors such as debt-servicing requirements, financial sector regulation and monetary policy hinder or obstruct governments from mobilising resources. “The Centre for Women’s Global leadership identifies these areas as key points on the ‘Maximum Available Resources (MAR) Star’, a useful heuristic device that speaks to the Committee’s insistence that available resources include potential as well as current resources” (CESR, 2012a, p. 10).

The CESR proposes a framework that encourages the use of a range of quantitative indicators in order
to achieve a broad overview of the extent to which a state is compliant with its obligations to the Covenant. Whilst each assessment indicator is able to provide a degree of insight on its own, when all indicators are used collaboratively they are significantly more comprehensive. Given that the range of tools available has emerged organically and independently however, they are not necessarily immediately amenable to inter-usage. Furthermore, after statistical data has been collected, even if it is measured using a number of indicators, analysts still face significant problems of interpretation. Under normal circumstances, indicators reflect progress in reference to comparisons against benchmarks, however with regard to economic and social rights, even the benchmarks are nebulous. Whilst the MDGs are often touted as benchmarks, they are reasonably arbitrary when juxtaposed against the requirements of human rights obligations.

In any case, the extent to which a state is meeting its minimum core obligations is perhaps destined always to be subjective, nor is one quantitative benchmark or measure ever likely to tell the whole truth. Furthermore, a failure to meet a benchmark does not automatically constitute an economic or social rights violation, but is only a descriptor of where something sits in the grander order of things at a particular moment. Where a state has performed poorly according to a particular indicator, and in order for this information to be practically useful, some understanding of why the state has performed poorly and the capacity of the state to improve is needed; analysis of policy and context are of crucial relevance. For this reason, while a comprehensive and collaborative use of quantitative approaches to assess the human rights performance of a state offers invaluable insights, it cannot usurp entirely to role of normative analysis. The ideal combination would be a framework that marries both qualitative and quantitative analysis which “helps avoid reducing human rights assessments to a technocratic exercise that analyses the trees while missing the forest and masks the value judgements that are inherent in choosing indicators and collecting specific data” (CESR, 2012a, p. 12). In response specifically to these dilemmas, the CESR has built a framework which attempts to convene both qualitative and quantitative data and normative analysis into a practically useful tool of investigation via which a state’s compliance with economic and social rights obligations can be assessed.

In 2012, the CESR published a report outlining an alternate methodological framework for measuring compliance with minimum thresholds as stipulated in the ICESCR. The OPERA framework is structured around four key steps which assess the state’s policy efforts, resources allocated, and outcomes, against a range of human rights principals and standards, using a combination of quantitative and qualitative tools. The authors of the paper contend that when these four steps are employed harmoniously, it is possible to make a comprehensive assessment of a state’s compliance with its obligations. The report notes that:

...putting emphasis on the steps taken by the state appropriately recognises that 'states'
primary obligations should relate to their conduct, which they directly control, in contrast to results, which are often the product of a confluence of many factors (CESR, 2012a, p. 12).

This focus is particularly valuable, as by shifting responsibility back into the realm of national governments, it is pried away from the grip of what Alston terms the “excessive focus on international machinery” (Alston, 2012).

The architects of the OPERA Framework contend that their comprehensive approach is a distinct move away from the kind of events-based monitoring that is common to civil and political rights and a shift “towards analysing trends in public polices, especially fiscal policies, given the central importance of resources for the fulfilment of ESC rights” (CESR, 2012a, p. 13). They are sympathetic to the reality that judging public policies against concepts that are themselves not fixed, such as progressive realisation and maximum available resources, is complex, and taking account of this, the framework draws on a multi-disciplinary approach, combining tools and methodologies from the social sciences, public policy analysis, economics and law. The techniques in the OPERA framework combine a range of assessment norms, from statistical data and budgetary analysis, to projected cost analysis, and use these to examine both obligations of conduct and result, drawing linkages between them.

The framework assesses the obligation to fulfil under four sub headings; outcomes, policy efforts, resources and assessment. Compiling the data from each grouping, it makes a comprehensive assessment of the extent to which a state has complied with its obligation to fulfil. In order to assess obligations of result, the outcomes category examines socio-economic indicators to capture a freeze-frame of the rights being enjoyed in a given state at a given time. However an assessment of outcomes alone does not provide a definitive understanding of a state’s compliance with its obligations. In order to do this, the framework includes an analysis of the obligations of conduct, analysing policy efforts to assess the extent to which laws and policies encourage the provision and protection of the rights in a given state. Furthermore, the resources step investigates how resources are generated and allocated in consideration of the broader macro-economic context. Finally, the assessment step takes account of the wider obstacles a state is facing, and then compiling the results from each step, a conclusion is drawn “regarding the level of compliance or non-compliance of a state with its human rights obligations based on a cumulative assessment of the findings from the prior three steps” (CESR, 2012a, p. 14).

The initial stage of the OPERA framework involves the collection of socio-economic data in order to establish broadly the level to which the rights in question are being enjoyed at any given time. This data reflects outcome indicators. Quantitative socio-economic indicators are most useful for describing rights violations or deprivations which affect large population groups and the manner in which trends in these deprivations evolve and change over time. Whilst this is clarifying, it is also not
without limitations, and does not alone demonstrate whether a state is compliant with its economic and social rights obligations, “as it is necessary to know not only what is occurring but why” (CESR, 2012a, p. 15). Even if the initial outcomes standard constitutes prima facie non-compliance, the mitigating factors of available resources and progressive realisation prevent this conclusion from being drawn absolutely. It is for this reason that outcomes are balanced against conduct, to establish the extent to which governments are making a concerted effort to improve upon poor outcomes and in so doing, fulfilling the duty of progressive realisation. Furthermore, disaggregated data helps to illuminate blind spots of accessibility and patterns of discrimination where population clusters may lag behind national averages. For example:

...indicators on levels of the use of goods and services should be complemented with indicators that show geographic and economic accessibility. Water collection time, for example, is a strong indicator on water accessibility. Similarly, enrolment fees and indirect costs such as school supplies and transportation highlight economic barriers to accessing education (CESR, 2012a, p. 20).

The importance of budgetary and allocation analysis in the framework is in its capacity to illuminate exactly which areas are being singled out and prioritised for funding. This helps to determine whether budgetary decisions are exacerbating patterns of inequality and discrimination or improving them. Where budgetary analysis is carried out over a period of time, it is also possible to assess the extent to which a state is progressively realising its obligations.

For example, if allocations to the water sector have decreased, in real terms, while performance on water-related outcomes has deteriorated or stagnated, it may be possible to argue that the state is not complying with its obligation of non-retrogression (CESR, 2012a, p. 24).

The usefulness of this approach is that it may clarify where the social cost of implementing austerity measures will likely be too grave, or rather “when such cuts undermine previous gains made on progressively realising right(s) under review” (CESR, 2012a, p. 24).

The OPERA framework is also concerned with incorporating an assessment of the extent to which policy formulation demonstrates compliance with the concept of procedural rights, such as rights to participation, accountability and transparency with regards to policy design, implementation, monitoring and evaluation. Assessing state compliance with procedural rights, the OPERA framework analyses “indicators on the forms of participation mechanisms available; the communities awareness of them; their regularity; their attendance rate and composition; the extent to which their recommendations are then acted on by government” (CESR, 2012a, p. 25).

This cumulative approach is designed to be flexible towards the considerations of each country and it
has demonstrated this characteristic in implementation. The OPERA framework has monitored the progress of a number of countries towards the fulfilment of economic and social rights in recent years, “from reproductive health in Kenya; to the economic and social dimensions of Liberia’s transition from conflict; to the impact of the economic crisis in Ireland” (CESR, 2012a, p. 25). This framework is useful for the argument of this research in that it facilitates the building of a more sophisticated and robust case for the re-appropriation of funds intended for debt servicing were it to face adjudication in national courts or be brought before the CESCR, under the new complaints mechanism established in the Optional Protocol. The clarification of economic and social rights violations, and the links to economic policy and the broader macro-economic context that prevents the fulfilment of rights is particularly useful.

Equally as important to this research is the understanding imbedded into the OPERA framework that third parties may act in such a way as to prevent the state from meeting its obligations, and furthermore that third parties may actually commit human rights violations. This includes a failure by foreign states to meet their extraterritorial obligations to respect human rights obligations beyond their borders. The authors of the framework contend that what “this analysis shows is how the actions or omissions of other actors impact on the state’s capacity to implement the right in question and how effectively the state is responding to these in line with its duty to protect ESC rights” (CESR, 2012, p. 26). This research argues that the debt-servicing requirement is negatively impacting the state’s capacity to fulfil economic and social rights obligations, and therefore the state has a duty to respond to this macro-economic condition by reappropriating funds intended for debt servicing and directing them into the better fulfilment of said rights.
CONCLUSION

There is no question this was an ambitious research project. In order to consider the relevance of a human rights approach to debt work out mechanisms, it was necessary to consider not only the dominant economic frame within which debt workout mechanisms have already been conceived, but the trajectory of economic thought over the past two centuries. Nor was it sufficient to stake out the contemporary political landscape with respect to the institutions of global economic governance, without some consideration of the way concepts of democracy, accountability and transparency have evolved in both scholarship and practice as globalisation has intensified. Further, the doctrine of human rights has multiple components; historical, practicable, justiciable, theoretical and so on. No one of these components can be entirely separated from any other, particularly not in analysis that seeks ultimately to consider usefulness and relevance. Becoming competent in so many spheres was an enormous task, however I remain convinced that contemporary questions of political and economic governance and international law cannot be considered in isolation, especially where the context of globalisation is now so accelerated, that the deep intermeshing of cultures, markets, ideologies, identities, arrangements and practices is omnipresent.

In this research I have argued that the debt problem has conventionally been mis-represented by IMF and World Bank economists and government agencies in the period since 1979, and that solutions designed by IFIs have relied on the dominant neo-classical economic paradigms which are theoretically dubious and have failed to resolve the crisis. These institutions have embedded themselves into the decision making processes and mechanics of economic policy management in poor countries without appropriate regard for their lack of democratic legitimacy, and have not been adequately called to account for their repeated failure to achieve growth for the poor countries. Nor have their pledges towards debt cancellation been sufficiently generous to transform debt into something sustainable. Despite the unprecedented mobilisation of civil society globally on the question, IFIs and Northern governments have not dynamically progressed debt relief, or sufficiently reformed their internal infrastructure and process. The continued requirement of poor countries to service unsustainable debt facilitates violations of economic and social rights as they are so described in the ICESCR, for those who are signature parties to the Covenant. This research has recommended the human right doctrine, and in particular Bietz’s conception of it as a public political practice, is an already existing framework that can be drawn upon to begin the enormous task or supplanting the market with the human person as the centrepiece of social arrangements.

In undertaking this research, I often felt like a very small tugboat adrift in a vast ocean of knowledge, sure that the waves would swell up from the seat of the ocean floor at any moment and fold me into their great depths forever. Every once in a while though, a light house beacon would beam out at me
from some far off yonder and re-orient me toward the shoreline. Startled by a sentence or a paragraph, I would pause inwardly with recognition and marvel at the clarity. A series of words woven together in such a way as to resonate profoundly, encapsulating some very basic truth, like a light house beam striking out against the dark night sky, keeping me company as I fixed the sails and steered the course.

One such line came from Paul Farmer. I came across it early on, and it resurfaces now as my little boat navigates its final stretch of water.

“We look at the lives of the poor and are sure, just as they are, that something is terribly wrong” (2009, p. 96).

I found in this sentence the articulation of the strange and evasive anxiety that had been building as my research project wore on. The sheer magnitude of human waste unleashed by years of structural adjustment programs all across the global South; the net transfer of wealth that goes from South to North; the New York Court of Appeals finding in favour of hedge-fund manager Paul Singer to strip Argentina of resources; Something is terribly wrong.

At first, I found this though inherently optimistic. If something is terribly wrong, at least one can know it and can set about the task of righting it. But ever so slowly, I came to feel that the terribly wrong thing was a foreboding suspicion that there might be no way to stop the neoliberal project from careering towards its ultimate ends. There are still thresholds of human dignity that are yet to be dismantled by capitalist globalisation, but there is some indescribable and ominous quality about the future, as if it were already written, quivering and waiting to collapse onto histories pages. The fear is that the terribly wrong thing is that this is just the beginning.

I have always been a great believer in words. If you can find a way to order the words, uncover the loophole in language, describe things just so, hope can be conjured up out of despair. But it seems increasingly difficult to manipulate the words in the face of events as they unfold. The phraseology becomes ever more complex and it sounds less and less like hope and possibility and more like magical thinking.

When the doctrine of human rights rose up from the terrible wounds of war and genocide in 1944-45 and into the radiant light of civilised consciousness, it represented a manifesto of comprehension. People must be protected from enduring the unbearable. The collective agreement that the forces of evil should be prevented from their worst excess represented some sort of welcome epiphany. But surveying the landscape 60 year later it seems that little progress has been made. Evil has re-imagined itself. Cloaked in the slick vocabulary of efficiency, it has dazzled us into compliance. And even as the rhetoric of anti-poverty strategies and Millennium Development Goals is ratcheted up in official documents, the mood within the institutions of global governance seems increasingly hostile
towards human rights pronouncements on how the world ought to be (Raffer, 2010, George, 2012).

The opening lines of Samuel Beckett’s *Waiting for Godot* announce that there is ‘nothing to be done’. Perhaps Mr Beckett is right, but I would add a disclaimer; that the spirit of resistance is the very act of doing something in perfect knowledge if it’s likely futility. In this regard I submit to the lilting poetry of the great Seamus Heaney, who departed the stormy seas of this world only recently.

*History says, Don’t hope*

*On this side of the grave,*

*But then, once in a lifetime*

*The longed-for tidal wave*

*Of justice can rise up*

*And hope and history rhyme.*

Having spent four years in a little tug boat, willing the gods to still the waters, I find myself surrendering to Mr Heaney’s words, which sing out like a fragile lighthouse beacon in the dark, a hope against better judgement, that they warn that a tidal wave is coming.
Reference List


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Hilton v. Guyot, 159 U.S. 113. U.S. Supreme Court. Decided June 3, 1895


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