

CIVICUS General Assembly: Regulation of international financial processes from the bottom-up

Financial Regulation as if Human Rights Mattered

**Thursday 6 September
11:30-13:00
Montreal, Canada**



**CENTER FOR ECONOMIC
AND SOCIAL RIGHTS**

Summary

1. Human consequences of the enduring financial crisis
2. How can the human rights framework help regulate private finance?
3. Righting Financial Regulation from the Ground Up Initiative
4. Some insights on financial regulation alternatives



Financial Crisis Undermining Human Rights Protections

Successive waves from economic collapse to austerity threatens-

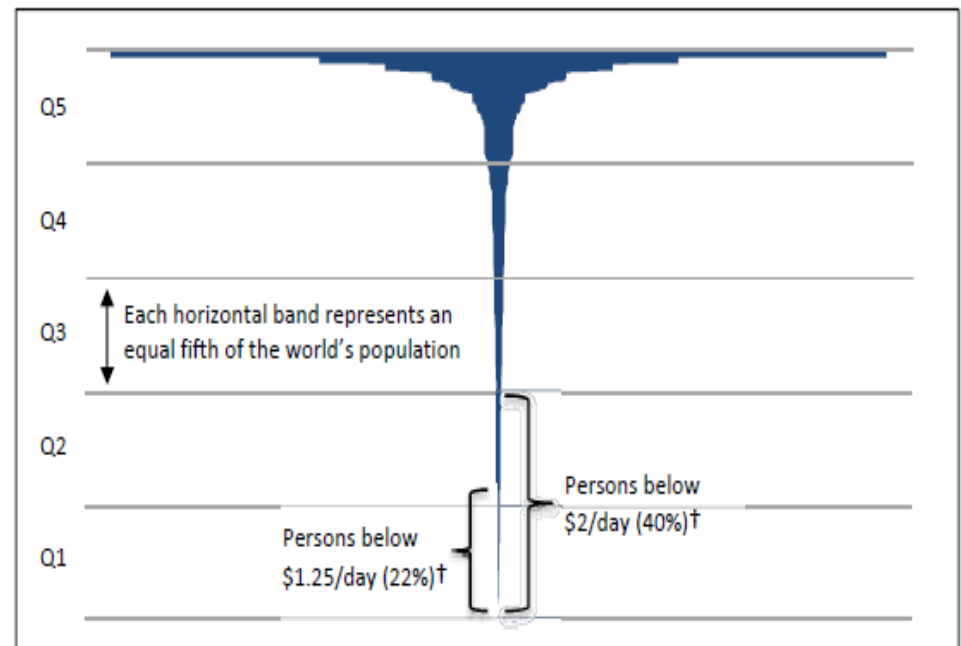
- **Decent work** – unemployment, precarity and vulnerability, with a jobless and wageless “recovery.”
- **Food** price speculation volatility drives hunger
- **Social protection, education & public health** undermined by austerity
- Reducing living **standards**, accentuating poverty.
- **Freedom of expression** as social mobilizations villified and criminalized.
- **Participation, access to information** - crisis contracts space for dialogue and civil society space.

→All of which are int’ly (and often times constitutionally) protected human rights. Government choices on financial regulation have and continue to be undoing whole social contracts—nationally and globally.

Impacts of the Financial and Economic Crises on Economic and Social Rights

Structural dimensions of deprivation

- Dramatic levels *income inequality* within and between countries.
- *The richest 1.5 billion receive 83 % of global income, while the poorest 1.5 billion get 1%.*
- Estimated to take **800 years** for bottom billion to achieve ten percent of global income. (UNICEF 2011). Who benefits from this form of 'development'? Financial crisis accentuating this trend?



Source: Adapted from UNDP (2005) using World Bank (2011), UNU-WIDER (2008) and Eurostat (2011)

* According to the global accounting model

† Based on Chen and Ravallion (2008)

→ **Deep injustice of inequality not an accident of fate. Conscious financial policy choices (actions & omissions) have driven upward mobility of income and are significant drivers of inequalities.**



Applying human rights to economic policy in crisis

Some key questions

- What does it mean, in practical terms, to bring human rights standards and principles to bear in the financial regulatory decisions?
- Are there alternative regulatory choices that, if pursued short- and long-term, are likely to go farther in meeting human rights commitments?



Applying human rights to economic policy in crisis

- Central concern of HRs to ***regulate the exercise of (public) power***, transform asymmetrical relationships and ensure that those who wield power are answerable to those who do not, converting passive beneficiaries of economic policy into rights-holders and drivers of transformation.
- Human rights helps to subvert two erroneous myths perpetuated pre-crisis: 1) self-regulation, 2) impartial financial technocracy



What are economic, social & cultural rights?

Economic, social and cultural rights entail legal obligations for States to:

- **Respect:** refrain from interfering with rights
- **Protect:** prevent abuses by business and other third parties and hold those responsible to account
- **Fulfill:** create conditions for the realization of rights

→ These duties apply domestically and in many circumstances ***beyond borders.***

Human rights standards and principles relevant to economic policy

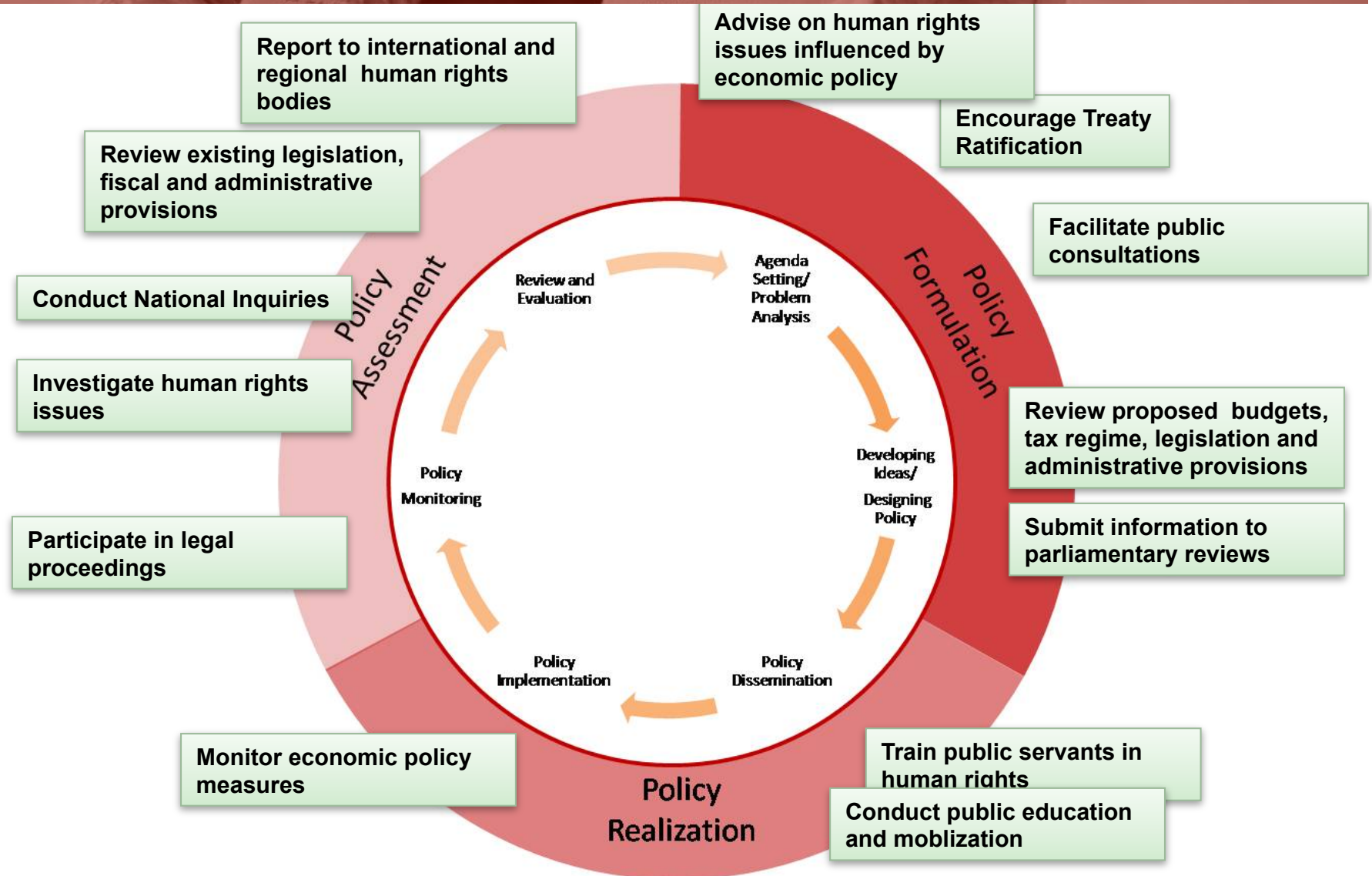
Obligations of conduct:

- To take steps (legislative, judicial, budgetary, administrative and other) to fulfill ESCR, including through national planning (ICESCR, OP)
- To use **maximum available resources** to ensure progressive realization, including resources to be provided **through international cooperation** (ICESCR, OP)
- To ensure **participation, transparency and accountability** in the policy cycle (CESCR GCs)

Obligations of result:

- **Progressive realization:** move swiftly towards increased levels of rights enjoyment, with no deliberate retrogression (“backsliding”) unless justified (ICESCR Art 2)
- **Minimum core obligations:** immediate duty to prioritize achieving minimum essential levels of rights enjoyment universally (CESCR GC 3)
- **Non-discrimination and equality:** duty to ensure substantive equality in enjoyment of rights (ICESCR and GCs)
- To ensure that relevant services are **available, accessible to all, affordable, acceptable and of adequate quality** (CESCR GCs)

Participation and transparency throughout economic policy cycle



Human Rights Accountability in Economic Policy



Accountability and Remedy from a Human Rights Perspective

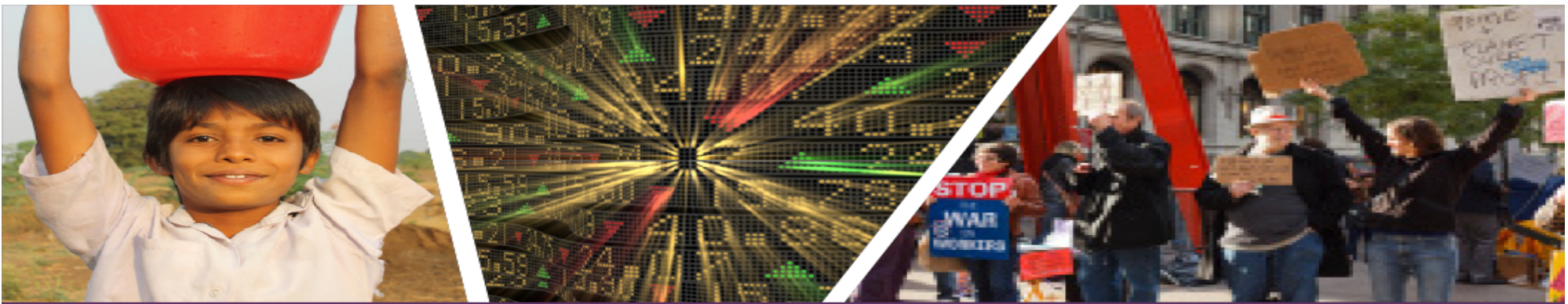
- Impunity of financial market actors for the human and economic consequences of this predicted/able financial crisis.
- “No human rights without human remedies”: Accessible and effective mechanisms (via courts, political institutions, social mobilization, administrative bodies, etc.) to **access justice** must be in place to enable rights-holders to make their rights *enforceable* and to seek *remedy* and corrective action when their rights have been violated.
- Remedial and also *preventative* role of human rights accountability.

Transformative Human Rights-Centered Economic Policy Alternatives

Economic policy is public policy requiring the legitimate contribution of all people in its design and implementation.

- Human rights norms, standards and policy don't give detailed prescriptions universally, but can provide a programmatic framework as well as operational redlines for the entire economic policy cycle.
- Beyond perceived human rights agnosticism on economic paradigms
 - Convergence around the need for a **protective**, **regulatory** and **redistributive** role of the State in the economy.





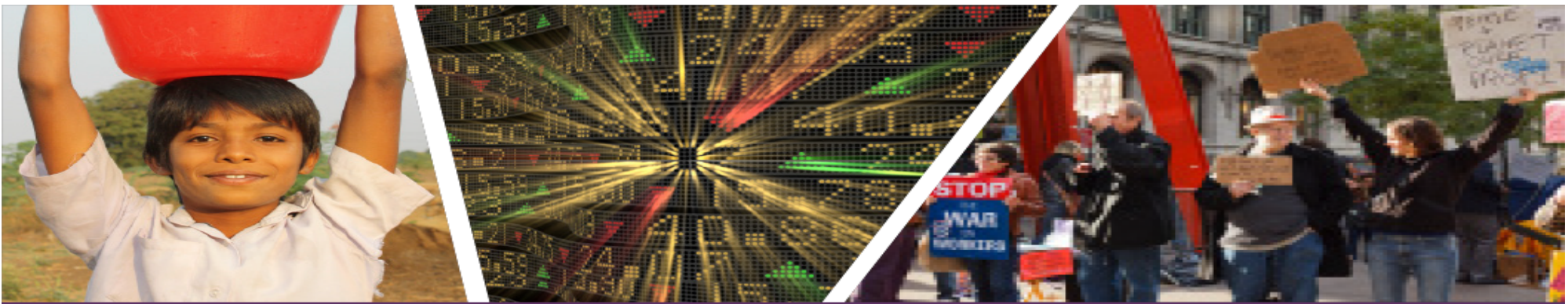
A BOTTOM-UP APPROACH TO RIGHTING FINANCIAL REGULATION

A new, young initiative to ***expand peoples' voices in financial regulation*** by creating space to meaningfully relate financial regulation debates to people's existing human rights struggles at national and global levels in three dynamic ways...

1. Make link between human rights struggles and financial regulation together with social movements
2. Generate proposals for ensuring national financial regulation is placed at the service of society
3. Build cross-national alliances and advocacy strategies



202.635.2757 PHONE | 202.832.9494 FAX
 1225 Otis St. NE | Washington, DC 20017
www.rightingfinance.org



A BOTTOM-UP APPROACH TO RIGHTING FINANCIAL REGULATION

National workshops (Uganda, South Africa, El Salvador, Bolivia, Philippines, Kenya and Morocco, upcoming Nigeria, Mozambique, Brazil, Myanmar)
Educational materials for trainers & developing website platform rightingfinance.org
Advocacy and strategic interventions (G-20, post-2015, Human Rights Council, etc.)



202.635.2757 PHONE | 202.832.9494 FAX
 1225 Otis St. NE | Washington, DC 20017
www.rightingfinance.org

Some Insights on Human Rights-Centered Financial Regulation

Financial Regulation Policy

- **Protecting** against human rights abuse by private actors, preventing future financial crises
 - *Prevent gambling in famine and homes:* Curb financial speculation which contribute to commodity (fuel, food) price volatility and housing bubble.
 - *Too-Big-to-Fail, Too Big to Exist:* Reduce the size and complexity of systemically important financial institutions, breaking up large firms through direct regulatory intervention, if necessary (ex. Citigroup, Bankia)
 - Strengthen *Bank Capital Requirements* to prevent future human rights abuse

Some Insights on Human Rights-Centered Financial Regulation

Financial Sector Tax Contributions

- **Objectives:** Raising revenue; Deterring speculation; Reducing size of financial sector; Redistribution; Reparations/compensation
- **On:** Financial transactions (Robin Hood tax), Profits, Revenue
- Frontal assault on capital flight, and tax evasion/avoidance facilitated if not openly encouraged by private financial actors and gov'ts, especially in tax havens.



Transformative Human Rights-Centered Economic Policy Alternatives

Monetary Policy

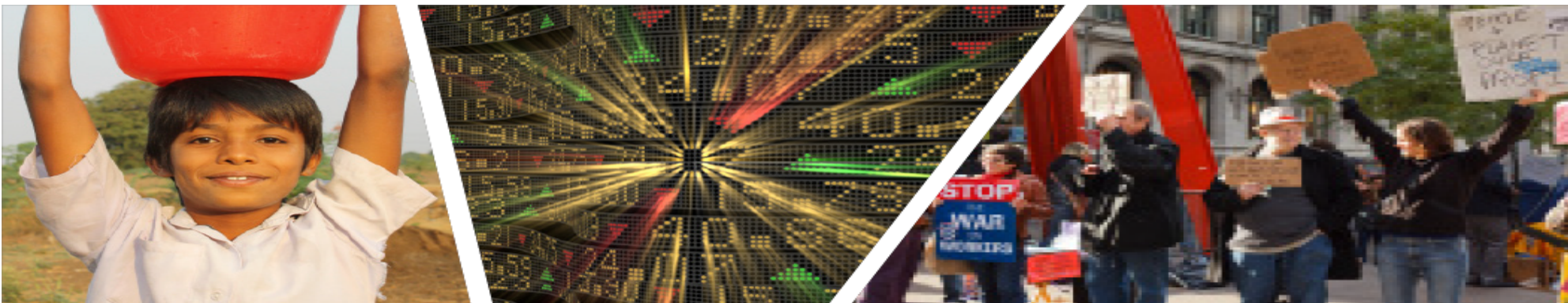
- Central banks are important human rights duty-bearers, essential players in determining overall employment and the enjoyment of other economic and social rights, such as housing and food.
- Transparency, participation and accountability in monetary policy cycle a particular challenge, with few mechanisms to hold the central banks transparent and accountable, even to their own legal mandates.
- ***Balancing inflation stabilization with full employment-oriented targets and financial stabilization functions key, especially in relatively deflationary time***





The road to justice is made by walking...

- Economic and financial policy itself is at crisis. Moment is now for transformative alternatives.
- Human rights law and practice can provide a **programmatic framework** as well as **operational redlines** to guide the design, implementation and monitoring of financial regulation for **moral, legal** and increasingly **economic** reasons.
- Solutions to applying and enforcing human through financial regulation will not fall from the sky. Requires action
- Human rights is about rendering the forces affecting peoples' lives clear and contestable, to check the misuse of power as influential and unaccountable today as any dictatorship in decades past.
- Renewing our “capacity to aspire” -a mobilizing force to vivify and reinvigorate our imaginative possibilities—opening spaces for public reflection and shared construction of alternative financial and economic policies which place human dignity at their heart.



A BOTTOM-UP APPROACH TO RIGHTING FINANCIAL REGULATION

Join us!

nlusiani@cesr.org



CENTER FOR ECONOMIC AND SOCIAL RIGHTS

202.635.2757 PHONE | 202.832.9494 FAX
1225 Otis St. NE | Washington, DC 20017

www.rightingfinance.org