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WORKING PAPER

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DEVELOPMENT
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FROM *UNDESERVING POOR*
TO RIGHTS HOLDER :

A HUMAN RIGHTS
PERSPECTIVE ON SOCIAL
PROTECTION SYSTEMS

“
All people, by virtue of their humanity,
are deserving and entitled to the
enjoyment of an adequate standard
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protection is not a handout, or a
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Abstract

Over recent years, social protection strategies have rapidly gained striking political support and widespread acceptance in development discourse and practice. However, although development actors generally acknowledge that human rights should play an essential role in poverty reduction, there has been a lack of deep analysis of the implications of human rights obligations for social protection. This article attempts to bridge the two paradigms, building on the author's existing work on social protection and human rights. Magdalena Sepúlveda Carmona discusses how the persistent stigma around poverty among politicians, policy-makers and the general public has been a major obstacle to achieving the full potential of social protection to tackle poverty. She argues that the human rights approach to social protection can help to dismantle the fallacy of the "undeserving poor", towards a model in which people living in poverty are understood as individuals with inherent dignity and entitlements to social protection. The article concludes with a case study of how this approach would inform gender-sensitive social protection programmes, for example with regard to eligibility criteria, participation and conditionalities.

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Introduction

The rapid manner in which social protection systems have gained acceptance and political support in development and poverty reduction discourse over the past few years is practically without precedent. As Professors Barrientos and Hulmes have noted, social protection can be viewed as “a quiet revolution.”¹ The current political momentum around social protection provides a unique opportunity to reinvigorate the development agenda as a whole, which, despite the looming deadline for the achievement of the MDGs in 2015, now risks stagnation. At the same time, there remains a need to further evolve the concept of social protection by clarifying the meaning of a rights-based approach and putting this approach into practice.

One clear omission in the global discussion about social protection thus far has been the lack of a deeper analysis of the human rights foundations, implications and outcomes of social protection. Both human rights advocates and development actors equally acknowledge that human rights play an essential role in combating poverty and broadly agree on the fact that there are synergies between the human rights and development agendas. Despite this increasing recognition, there appears to be a considerable lag when it comes to building constructive, operational strategies bridging the two paradigms. This is a significant gap that must be filled as a matter of urgency.

By virtue of an extensive array of international and domestic human rights obligations States must ensure that human rights guide the design, implementation, monitoring and evaluation of all public policies, including their respective social protection systems. Human rights obligations are also relevant for development organisations across the world, which are now being pushed to meet these obligations, and to UN agencies that have committed to mainstreaming human rights throughout the UN system.² Unfortunately, it seems that we are still in the early stages of our learning curve in terms of putting this into practice. The emerging debate on the need for a rights-based

¹ *Social Protection for the Poor and Poorest in Developing Countries: Reflections on a Quiet Revolution*, Armando Barrientos and David Hulme, BWPI Working Paper 30, March 2008.

² See for e.g. the UN Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming, 2003.

approach has given rise to questions of precisely how a rights-based approach to social protection can best be achieved – that is to say, how the norms and principles of human rights can best be implemented. In my work as Special Rapporteur on extreme poverty and human rights, I have sought to develop a human rights-based framework that can guide policy and practice on this issue.³

Global political support for the idea of government-funded minimum social protection floors was institutionalised in 2009, when the heads of the UN agencies launched the *One-UN Social Protection Floor Initiative*. While the ILO *Recommendation 202* on social protection floors (2012) features a rights-based focus, little guidance is given to policy makers on how to accomplish this in practice. UN member States have repeatedly recognised that the respect for, promotion and protection of human rights is an integral component of an effective approach towards achieving the Millennium Development Goals⁴ and that human rights must be at the core of the new global development agenda.⁵ However, at the same time, there remains a pressing need to ‘convert’ the political interest in social protection to rights-based implementation strategies, so that its full potential and impact on poverty reduction and development is realised.

³ *In various reports to the General Assembly and Human Rights Council I have outlined a human rights framework for cash transfer programmes (A/HRC/11/9); non-contributory pensions (A/HRC/13/31), and for gender-aware social protection (A/65/259). I have also produced reports focusing on the global economic crisis, its impact on people living in poverty and the role of social protection in times of crisis and recovery (A/64/279 and A/HRC/17/34). The framework developed in these reports for a human rights-based approach to social protection is collected in the publication **The Human Rights Approach to Social Protection** by Magdalena Sepúlveda and Carly Nyst, published by the Ministry for Foreign Affairs of Finland ‘Elements for Discussion’ series, 2012. Available at :<http://www.ohchr.org/Documents/Issues/EPoverty/HumanRightsApproachToSocialProtection.pdf>*

⁴ *See, for example, the outcome document of the 2010 MDG Summit ‘Keeping the Promise’.*

⁵ *See, for example, High-Level Meeting of the General Assembly held on 25 September 2013*

The human rights framework

Although it is not widely recognised – in part because of the prevalent rhetoric of deserving versus undeserving poor – everyone deserves and, indeed, is entitled to social protection (social security), as a basic human right. The duty to implement and expand social protection systems to cover everyone in need of protection flows directly from a number of human rights, in particular the right to social security and the right to an adequate standard of living, which are enshrined in the Universal Declaration of Human Rights, several international and regional human rights treaties,⁶ conventions of the International Labour Organization (ILO),⁷ and national constitutions.

Of course, human rights standards do not provide answers to all the challenges faced by policymakers when designing social protection programmes. They do, however, impose legally binding obligations governing the discretion of States. These obligations not only require States to put social protection systems in place, but also guide the manner in which they do so (obligations related to the process) and the intended results of such systems (obligations related to the outcome). Moreover, rights-based social protection measures help States fulfil several human rights obligations, including: ensuring the enjoyment of the right to the highest attainable standard of physical and mental health; the right to food; the right to education; the protection of the family and maternity benefits; the right to fair and equal remuneration for work; and, the specific rights of vulnerable groups such as children, older persons and persons with disabilities.

We also need to give more attention to the human rights implications and outcomes of social protection programmes. There is strong evidence that social protection systems can assist States in fulfilling their obligations under national,

⁶ See articles 9, 10 and 11 of the *International Covenant on Economic, Social and Cultural Rights*, article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination*, article 11 of the *Convention on the Elimination of All Forms of Discrimination against Women*, article 26 of the *Convention on the Rights of the Child*, article 27 of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, and article 28 of the *Convention on the Rights of Persons with Disabilities*.

⁷ See *Declaration of Philadelphia and ILO Convention No. 102 (1952), on social security (minimum standards)*.

regional and international human rights law so as to ensure the enjoyment of at least minimum essential levels of economic, social and cultural rights. Nonetheless, if social protection systems are not rights-based – including being gender sensitive – they could create unintended impacts, increase vulnerabilities and social exclusion among some potential beneficiaries, and negatively affect gender relations. Policy-makers and development practitioners therefore need to become more attuned to the direct and indirect impacts of social protection programmes on human rights, both positive and negative.

There have been important developments in this regard, from the pioneering General Comment 19 of the Committee on Economic, Social and Cultural Rights in 2008 that addressed the core elements of the right to social security from a human rights perspective, to the ILO Recommendation 202 on social protection floors in 2012 which, though not mentioning human rights in its substantive sections, nevertheless has an integral rights based approach.

However, considering the extensive human rights obligations that States possess, and given that all UN agencies have committed to mainstreaming human rights throughout the UN system,⁸ the lack of a systematic discussion of social protection from a human rights perspective is extremely concerning.

Accordingly, for the past five years, in collaboration with several partners, I have focused my work as United Nations Special Rapporteur on extreme poverty and human rights, on further developing and promoting a human rights framework for social protection, identifying best practices and disseminating lessons learned. I would like to note that one of the key messages of the analysis is that human rights obligations relate not only to the final outcome of social protection programmes, but also to the process through which such programmes are implemented.

In this article, I will present some reflections on the persistence of the deserving-undeserving poor ideology and how its influence in policy-making has a negative impact on both the design of social protection systems and on human rights. I will propose that a rights-based approach to social protection

⁸ See for e.g. the UN Statement of Common Understanding on Human Rights-Based Approaches to Development Cooperation and Programming, 2003

systems is not only a legal obligation but also an important tool to ensure that these programmes gather the political support they deserve and that they respect the rights and dignity of all recipients. In order to be more specific, I will focus my argument on how social protection systems should respect, protect and promote women's rights.

*Moving from **undeserving poor** to **rights holder***

In this article, I will discuss how prejudices and stigma against people living in poverty are major barriers to effectively tackling poverty and achieving the full potential of social protection. When such prejudices inform social protection policies, these policies tend to deny the dignity and autonomy of low income families, fail to recognise that they should enjoy their rights and freedoms in an equal manner with the rest of the population, and overlook all the obstacles that people living in poverty face to achieve more fulfilling lives.

As part of my work I often meet and interact with people living in poverty as well as State officials and civil society groups. While there are different forms and levels of poverty around the world, I am mandated to monitor the situation of the most excluded in all countries of the world. Therefore, I have looked at the situation of those facing the greatest challenges in a variety of contexts, in countries with different levels of development, from Bangladesh to Ireland.

In this role, it has become increasingly and shockingly clear to me that one of the main obstacles in the fight against poverty is the deep-seated stigma and prejudice against low income families that unfortunately, seems to be universally widespread among those who are better off in society, and finds its way into government policy and programming, intentionally or not.

In different countries, common prejudices often stereotype persons living in poverty as lazy, irresponsible, indifferent to their children's health and education, dishonest, undeserving and can even paint them as criminals. Poverty is considered a personal failing, the result of 'not taking responsibility' for one's own life. Those living in poverty are considered the authors of their own misfortune, who can remedy their situation by simply "trying harder" or "working harder". Such a vision of poverty has obvious implications for arguments around social protection.

In many developed countries, when people receive social assistance (welfare benefits), they are portrayed as happily living on apparently generous government ‘handouts’ without any intention of seeking work, taking responsibility for their well-being or providing a better life for their children. These prejudices have been exacerbated following the introduction of austerity measures in many European countries: the use of expressions such as “handout”, “benefit scrounger” and “welfare dependent” - contrasted with “hard-working responsible citizens” – are becoming increasingly common among politicians. In the United Kingdom, for example, political discourse has created a dichotomy between so-called “skivers” and “strivers,” despite the fact that the vast majority of people receiving benefits are in employment.⁹

By their demeaning and degrading nature, these prejudices against people living in poverty go directly against the idea of dignity that human rights norms seek to protect. Moreover, such prejudices are so deeply entrenched that they often inform public policy-making, preventing the resulting policies from tackling the systemic factors that prevent persons living in poverty from overcoming their situation. When they are based on these prejudices, social policies perpetuate poverty and lay the foundation so that violations of human rights of the most vulnerable are able to take place.

In my work, I often find this type of prejudice when I discuss with policy makers specific social assistance programmes such as conditional cash transfers, unemployment benefits, workfare, lone parent benefits (the vast majority of lone parents being women) and even disability benefits.

Despite the strong body of evidence to the contrary, I often hear that any social assistance would be a disincentive to work, that the beneficiaries would misuse the money by purchasing alcohol or other superfluous things, or that they would try to deceive the system. Often their conclusion is that the only way this can be prevented or minimised is by putting in place strict requirements and conditionalities on the poor’s receipt of welfare benefits. Such measures often gain political traction as they are implemented alongside rhetoric that suggests they will ensure that only the “deserving poor” receive support.

⁹ For further information, see Kidd (2013) *The Rise and Rise of Neoliberal Social Protection at:* <http://www.developmentpathways.co.uk/resource-centre/blog/post/32-the-rise-and-rise-neo-liberal-social-protection>

Policies that impose conditions on recipients of social benefits are, indeed, designed as if those living in poverty were the subject of charity instead of rights holders entitled to exercise their rights on an equal basis with the rest of society. By imposing excessive requirements and conditions on access to services and benefits, and severe sanctions for non-compliance, States punish, humiliate and undermine the autonomy of persons living in poverty, exacerbating the challenges they face in overcoming their situation.

In developed countries, those entitled to welfare benefits are often subject to intensive examinations and intrusive investigations, including searching their homes for evidence of fraudulent activity. These intrusive measures undermine beneficiaries' personal independence, seriously interfere in their right to privacy and family life, make them vulnerable to abuse and harassment, and weaken community solidarity. When measures are taken with the aim of reaching only the "deserving poor" – without taking into account the dignity and rights of the recipients of social security – the measures not only threaten their enjoyment of rights but are also often ineffective and counter productive. Several examples of this type of measure have received attention recently, such as welfare-to-work programmes, the so-called 'bedroom tax' in the UK, and the strict monitoring that many States – including Canada and Australia – impose on single parents receiving welfare benefits to ensure that they are not cohabiting with a partner.

Meanwhile in developing countries, although social protection is thankfully increasingly grounded on a widely shared understanding that poverty is multidimensional and persistent in time and across generations, the idea of reaching only the "deserving poor" continues to underpin many social protection programmes. This can be seen, for example, in the placement of conditionalities on eligibility for cash transfer programmes, the growing popularity of workfare, and attempts to target certain benefits very narrowly.

While it might be easier to gather political support for programmes that are perceived to be effective in reaching those who "deserve them" – and easier to portray such programmes as resource-efficient – it is critical that social protection systems fully respect the dignity and rights of all the recipients, are implemented without discrimination of any kind and provide protection to the most vulnerable and disadvantaged as a matter of priority. To this end, it is essential that choices around specific policy options for social protection are

based not on narrow political calculations, clientelism, negative stereotypes about the poor or paternalistic considerations, but rather on a wide understanding of the impacts and advantages of the programmes, following public debate that is informed by accessible information.

The adoption of a human rights-based approach to policy-making, systematically across all areas, can assist in this task since, at the core of a human rights perspective are the values of universality, equality and non-discrimination, participation, access to information and accountability. From a rights perspective there are no “undeserving poor.” All people, by virtue of their humanity, are deserving and entitled to the enjoyment of an adequate standard of living and a minimum level of social protection, at the very least. Social protection is not a handout, or a luxury; but rather a right that belongs to everyone.

Contributing ideas: What does a human rights approach to social protection mean with regard to women’s rights?

In order to illustrate further how a human rights approach should guide the design, implementation and evaluation of social protection systems, I will focus my analysis here primarily on non-discrimination and the right to gender equality. I will examine briefly how social protection programmes can be made gender-sensitive. This is extremely important because, as we know, across the world women are more vulnerable to poverty and discrimination and are often unable to enjoy their right to social security on an equal basis with men.

Social protection systems have the potential to transform gender dynamics. However, to achieve this end, they must be designed to: **take into account the different types of risks and vulnerabilities to poverty** experienced by men and women; address the underlying causes of discrimination against and exclusion of women; and explicitly integrate women’s specific needs throughout their life cycle. However, currently social protection interventions are often implemented as if they were gender neutral, or approach gender equality as a secondary goal. Otherwise, it is common for policy-makers to consider that, by making women the recipients of social protection programmes, gender concerns are automatically and sufficiently addressed.

This is the case, for example, in several Conditional Cash Transfers (CCT) programmes around the world. These programmes mainly select women within households or female-headed households.¹⁰ It is widely understood that selecting women as recipients of social protection benefits significantly improves the education, health and nutritional levels of children and there is also evidence suggesting that female recipients of CCTs reportedly feel more empowered.¹¹ Nonetheless, in order to transform gender relations, avoid perpetuating stereotyped roles for men and women – and instead challenge damaging social and cultural patterns with a view to achieving the elimination of all forms of discrimination against women (as required by Article 5 of CEDAW) – States must go beyond simply making women the recipients of social protection benefits.

One problem that I often see when assessing social protection programmes – including CCT programmes – from a human rights perspective is that they either fail to **recognise the role of women as caregivers or rely on and increase women’s unpaid care work**. For example, when women are made responsible for complying with conditions attached to receipt of a social security benefit (for example, taking children to medical checks or ensuring they attend school) or when they are required to travel (sometimes long distances) to collect benefits or to participate in various stages of the programme, their domestic unpaid workload increases. If this is not expressly addressed in the design of the programme, the increased burden on women’s shoulders may further undermine their own welfare, entrench their unequal status in the home, and create disincentives to participation in the programme.

Meeting female beneficiaries of conditional social security programmes in several countries, I have heard from them how the **additional demands on their time** can hinder their access to formal labour markets, limit the possibilities for them to participate in capacity building opportunities including

¹⁰ *In Brazil’s Bolsa Família, for instance, 94 per cent of the recipients are women: Rebecca Holmes, Nicola Jones, Rosana Vargas and Fabio Veras Soares, “Cash Transfers and Gendered Risks and Vulnerabilities: Lessons from Latin America,” International Policy Centre for Inclusive Growth Research Brief, December 2010, No. 16, p. 2.*

¹¹ *Jones, N., Holmes, R., and Espey, J., Gender and the MDGs Briefing Paper No. 42, (Overseas Development Institute, 2008).*

education and training, restrict their ability to seek sexual and reproductive care (particularly if health centres are not easily accessible and childcare is unavailable), or further deprive them of leisure time.

Sometimes programmes that have not been designed to take into account women's disproportionate responsibility for care work can even have a detrimental impact on girls' schooling: when a programme increases the time the mother spends away from home, sometimes girls are required to assume the mother's activities such as cooking or collecting water.

Therefore, in order to fully maximise the beneficial potential of social protection for women, such programmes must be designed to take into account women's unequal burden of unpaid care work. They should seek to reduce and redistribute this work, rather than intensify it or reinforce its gendered distribution. Additionally, social protection programmes must be designed to ensure that they are accessible to women with care responsibilities, by addressing their constraints such as lack of mobility and limited time.¹²

Another serious ramification of failing to consider women's rights in the design of social protection schemes is that programmes are often not **accompanied by accessible, gender-sensitive, culturally adequate and high quality public services**. Sometimes women may be prevented from claiming entitlements such as educational subsidies or free health coverage if the service provided is of bad quality and neglects gender and cultural concerns. For example, indigenous women may be prevented from accessing health centres that do not provide culturally sensitive care, requiring them to speak the majority language or asking for their husband's consent. Girls may not attend school when there are no separate sanitation facilities or when they are harassed by teachers or other students.

Designing a social protection program to mainstream the inclusion of women requires that policy makers assess the underlying causes of gender inequality – including the unequal distribution of unpaid care work – and take concrete measures to address the specific risks and vulnerabilities of women. For

¹² *N.B. My 2013 report to the General Assembly (A/68/293), specifically examines the subject of unpaid care work, poverty and women's human rights. Available from <http://www.ohchr.org/EN/Issues/Poverty/Pages/AnnualReports.aspx>*

example, if the programme is directed at low income families – although a universal programme would be more in line with human rights principles – they must pay particular attention to the use of different forms of **eligibility criteria and selection methods** to ensure that the programme does not exclude or disadvantage women. When determining qualifying conditions for benefits, programme administrators must assess not only household income, but also how resources are distributed within a household. The use of household-based selection methods can put women at a disadvantage by ignoring the fact that they – in particular older women and girls – often receive fewer resources than men and boys regardless of household income. This is a common problem in non-contributory pension systems, where policy makers often assess the wealth of the household where an older widow lives, without taking into account the intra-household distribution of wealth that may exclude her.

Indeed, it is common for older women without an independent source of income to be denied access to a pension because their eligibility is assessed according to the income of others.

Programmes must also be designed to mitigate gendered power relations and address unequal decision-making power and roles both within the household and in the community. States should ensure the effective participation of women in the administration of social protection programmes, for example by establishing sex quotas and ensuring a gender balance in all participatory events and consultations within the programmes. For example, in Colombia's *Familias en Acción*, women are elected as community facilitators (*madres líderes* or *presidentas*) to serve as links between the programme and beneficiaries, giving women an opportunity to participate, while providing a gender-safe environment for women beneficiaries.¹³

A rights based approach demands the inclusion of participatory channels that are designed to take into account the existing asymmetries of power within the community, eliminate or diminish abuses of power by local elites, and avoid the exclusion of marginalised groups in the participation process, especially women. Particular attention must be paid to mitigating gendered power

¹³ Rebecca Holmes, Nicola Jones, Rosana Vargas and Fabio Veras Soares, "Cash Transfers and Gendered Risks and Vulnerabilities: Lessons from Latin America," *International Policy Centre for Inclusive Growth Research Brief*, December 2010, No. 16, p. 3.

relations and *addressing unequal decision-making powers and roles, within both the household and the community.*¹⁴ This requires ensuring that women can meaningfully participate both through addressing social and cultural barriers as well as practical ones, such as by *ensuring access to childcare services* by women wanting to participate.

From a human rights perspective, transparency and access to information are also critical. These are safeguards against corruption, clientelism and wastage, and represent a vital tool to increase beneficiaries' access to and participation in social protection programmes. Limited access to information by beneficiaries impedes their ability to claim their rights, and increases the likelihood that resources allocated to social protection programmes will be mismanaged or diverted. Therefore, in order for social protection programmes to comply with human rights standards, they must be transparent and comprehensive, and culturally appropriate information must be made accessible to all including the most disadvantaged, for example those who may be illiterate. Transparency must not be limited to the financial management and administration of social protection systems. All social protection interventions must have the mechanisms in place to ensure transparency and access to information with respect to *all core components of the programme* – including *selection mechanisms, eligibility criteria, benefit levels, complaints and redress mechanisms.* Without these mechanisms in place there is a higher risk that social protection schemes will reinforce and perpetuate unequal power relations, excluding those most in need of assistance. Gender inequality and discrimination patterns greatly affect the equal opportunities of women and men to seek, share and receive information about social protection programmes, as well as participate in decision-making processes and register complaints. As a result, the effectiveness of mechanisms for holding implementing agencies to account can be compromised. Therefore, gender sensitive mechanisms must be put in place.

¹⁴ For example, while the Argentina's Plan Jefes y Jefas de Hogar Desocupados (Program for Unemployed Male and Female Heads of Households) established Municipal Advisory Councils (Consejos Consultivos) as participatory mechanisms for the beneficiaries of the programme, the Councils were co-opted by men representing the political interests of the local governments and this caused the exclusion of the majority of women enrolled in the program. As a consequence, a programme that mainly benefited women was socially controlled by men. Christian Gruenberg and Victoria Pereyra, *Manual de estudios de caso: Transparencia, participación, y rendición de cuentas en programas sociales focalizados*, Fundación Tinker, Chile, 2009.

Final comments

In 2007, Lauchlan T. Munro stated, “Advocates of the rights-based approach to social protection need to leave the ivory tower, roll up their sleeves, and contribute ideas on a rights-based design of social protection schemes”.¹⁵ While this admonition may have had validity at the time, I believe that this challenge has now been met. In recent years, human rights advocates have actively provided strong and concrete guidelines on how to use the human rights framework to ensure that the design, implementation and evaluation of social protection systems respect and uphold the rights, dignity, autonomy and agency of people living in poverty. What is lacking is the commitment of States, development organizations and donors to put these ideas and guidelines into practice.

It is critical to understand that a rights framework is not only an expression of an aspiration but, rather, articulates legally binding obligations that State policy makers must uphold. Such obligations require States to ensure that political discourse and policy measures move away from the poisonous paternalistic paradigm of “deserving versus undeserving poor” and the conceptualisation of benefits as handouts or charity, to a new vision of all people living in poverty as rights holders with entitlements. Given that social protection is a right in itself and is a key determinant of the enjoyment of so many other human rights for people living in poverty, the use of a human rights approach in this sphere should not be seen as a matter of semantics or as merely the latest ‘fad’ in development and poverty reduction. The key now is to make politicians, policy makers, the media and the general public understand that the State has an obligation to provide social protection to all – in a manner explicitly aimed at protecting the most disadvantaged from poverty, malnourishment, inadequate housing, avoidable illness, lack of opportunity and other scourges of society – and ensure that everyone can enjoy full and equal rights.

¹⁵ *Lauchlan T. Munro: “Risks, rights and needs: compatible or contradictory bases for social protection?” BWPI, Working paper No. 7, International Development Research Centre, October 2007, p. 13.*

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