Introduction to the *Research Handbook on Economic, Social and Cultural Rights as Human Rights*

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The publication of a handbook on economic, social and cultural rights (ESCR) at the commencement of the 2020s is timely. Human rights movements are confronted with unprecedented challenges that lie squarely in the socio-economic realm. The dramatic rise in socio-economic inequality, privatization of public services, financialization of land, housing and food systems, economic displacement and migration, widespread homelessness and hunger in even the most affluent countries, the global climate crisis and the COVID-19 pandemic have highlighted the failure of dominant human rights paradigms to address the most pressing human rights issues or to create a framework for multilateral responses to global threats. Some have even suggested that the inability of human rights movements to respond effectively to these new challenges signals ‘the endtimes of human rights’.¹

Failures of dominant human rights paradigms that have largely excluded ESCR should not, however, be mistaken for failures of human rights at large. The failures of dominant human rights paradigms to challenge emerging patterns of socio-economic inequality and exclusion and the incapacity of governments to ensure fundamental human rights to health, housing, food, water, sanitation or social security may instead be considered as an urgent call to reclaim human rights that include ESCR, which were central to the post-World War II commitment to human rights and recognized in the Universal Declaration of Human Rights (UDHR) as essential to human dignity and the development of the human person. It is the subsequent treatment of ESCR as ‘second-generation’ rights, still conceived in some quarters of the global north as merely aspirational and to be left to governments to implement as they choose, that should be questioned in light of contemporary challenges.

Indeed, the 2020 COVID-19 pandemic has starkly ‘illuminated the critical role of socio-economic rights in securing a dignified life for all and in countering social and economic inequalities’.² While there are certainly civil and political rights challenges raised in the responses to the pandemic, the central human rights challenges have been to ensure right to health, food, a safe home, social security, access to work and the ESCR protection of the most vulnerable. The pandemic has fundamentally exposed the limits of governance regimes that neglect these core human rights obligations and fail to establish and maintain public institutions necessary for effective, collective responses. The hazards of the neoliberal deconstruction of governmental capacity have become dangerously apparent and there is now an almost desperate demand by people across the world for governments to reclaim their role in organizing economies, supporting those in need and ensuring fundamental ESCR. As noted in the context of the COVID-19 pandemic: ‘This crisis may provide an opportunity to see the value of truth and trust in democracy and multilateralism, and the starkly dystopian reality we

¹ Stephen Hopgood, *The Endtimes of Human Rights* (Cornell University Press 2013); Samuel Moyn, *Human Rights and the Uses of History* (Verso 2014).

² Sandra Liebenberg, ‘Covid-19 and the Critical Importance of Achieving Socio-Economic Rights’ (20 March 2020) <www.dailymaverick.co.za/article/2020-03-20-covid-19-and-the-critical-importance-of-achieving-socio-economic-rights/>.

face without them.’³ The work undertaken to develop models of governance based on ESCR in previous decades, often drowned out by the clamor of neoliberalism, must be urgently revived. We are hopeful that this Handbook will provide a resource for pursuing a more inclusive and effective human rights practice and a new architecture of progressive rights-based governance through which the international community, as well as all levels of government, can meet the challenges of the new decade and ground a legitimate hope for a more equal, sustainable and secure world.

If human rights movements in the 2020s are destined to face unprecedented challenges in the socio-economic domain, they should also draw from commitments made by states in that realm. States have pledged, in the 2015 Sustainable Development Goals (SDGs), to eliminate poverty, homelessness and hunger, to ensure access to health care, water and sanitation, decent work and quality education and to take urgent action to address climate change by the end of the decade.⁴ Admittedly, governments have demonstrated a propensity to sign on to commitments such as these without any real intention of meeting them, and the economic consequences of the COVID-19 pandemic makes these goals harder to achieve. The COVID-19 crisis also reminds us, however, of the capacity of governments to act when action is seen as necessary and of the critical importance of multilateralism and shared commitments to a sustainable world. The adoption of the SDGs reflect a new consensus that the neoliberal model of development, based on reliance on unregulated markets and characterized by growing inequality in income and assets, widespread socio-economic deprivation, environmental degradation and abandonment of public institutions, is unsustainable. The rise of new social movements and a nascent politics in opposition to exclusionary socio-economic paradigms, and the wake-up call of the COVID-19 pandemic, suggest that it will be difficult for states to simply abandon the SDG commitments. The commitment ‘to leave no one behind’, the central pledge of the SDG commitments, cannot be fulfilled by governments on their own. Those who have been left behind, whether in the global south or north, must be empowered to claim SDG goals, targets and timelines as human rights entitlements and insist on meaningful engagement in the realization of their rights. The SDG commitments must be articulated and claimed as fundamental rights.

This Handbook responds to both the challenges and the promises of the new decade by surveying a domain of human rights law and practice that has been marginalized within dominant human rights discourse and under-resourced by governments and human rights funders. The diverse set of authors includes human rights advocates, practitioners and scholars from all regions of the world and across disciplines. Their chapters explain how rights to food, housing, water and sanitation, health, work and social security have been defined and elaborated by human rights bodies and increasingly claimed and adjudicated under domestic, regional and international law. They describe an evolving understanding of state obligations to which all levels and branches of government can and should be held accountable, as well as responsibilities and legal obligations of businesses, transnational corporations, international financial institutions and development agencies. As such, they suggest the possibility of a revitalized

³ Alicia Ely Yamin and Roojin Habibi, ‘Human Rights and Coronavirus: What’s at Stake for Truth, Trust, and Democracy?’ (1 March 2020) <www.hhrjournal.org/2020/03/human-rights-and-coronavirus-whats-at-stake-for-truth-trust-and-democracy/>.

⁴ UN General Assembly Resolution 70/1, ‘Transforming our World: The 2030 Agenda for Sustainable Development’ (21 October 2015) A/RES/71/1. See Chapter 18.

form of human rights advocacy in which ESCR and those who claim them must assume a more central place; a field of human rights practice capable of challenging deprivations of equal dignity and rights in the socio-economic realm; and a field of human rights practice capable of laying claims to sustainable development as a human rights entitlement and forming the basis of a new, more inclusionary politics and world order.

The authors do not, however, speak with one voice, and the book does not seek to articulate a unified or universally applicable framework for ESCR. ESCR practice is as diverse as those who claim rights and the circumstances in which they live. The growing awareness that prevailing paradigms of universal rights have been rooted in political dominance and colonization demands a more nuanced understanding of universality that recognizes diverse experiences and constantly changing forms of socio-economic exclusion and oppression. To be effective, the human rights project must commit to shared norms and values to which states can be held accountable, and on which basis rights claims can be advanced and adjudicated. Human rights norms and values must be derived from the UDHR premise that everyone is ‘equal in dignity and rights’. They must be nurtured by claims from those whose rights have been denied or silenced and continually evolve in response to these claims. ESCR described in the Handbook are central to this dynamic of evolving human rights norms because they advance claims by those whose human rights have been previously ignored or denied access to justice. They redefine the scope of human rights protections in order to engage the social and economic realities in which rights claimants live. While the authors of the Handbook write from a range of perspectives and disciplines, covering diverse rights and human rights systems, a common theme running throughout is the drive towards a more inclusive human rights paradigm, engaging the lived realities of rights claimants. It is a quest, therefore, to pursue a more nuanced and transformative understanding of universal rights.

While the Handbook might seem to be premised on a conceptualization of ESCR as a separate category of rights, a more nuanced reflection understands ESCR practice as a different iteration of rights, derived from the inclusion of those whose rights are violated by socio-economic deprivation or by government neglect. ESCR practice fundamentally rejects the restrictions and exclusions implicit in ‘negative rights’ paradigms, according to which human rights claims are conceived primarily as limits and restraints on governments rather than as claims to positive measures required to realize rights. ‘Negative rights’ paradigms have, predictably, proven to be inadequate as a basis to challenge human rights violations resulting from the retreat under neoliberalism from social programs and regulatory measures and the systemic neglect of the needs of marginalized groups. The neoliberal agenda has in fact been supported by a negative rights paradigm that privileges legal challenges to governmental interference while denying access to justice for violations resulting from government neglect, inaction or failure to regulate private actors.

Although it is generally acknowledged that civil and political rights also require positive measures and resource allocation, ESCR law and practice has engaged positive obligations more directly and elaborated standards on the basis of which compliance may be assessed. Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) articulates the obligation to achieve progressively the full realization of rights ‘by all appropriate means, including particularly the adoption of legislative measures’ and applying the ‘maximum of available resources’. Compliance with this obligation is now assessed in individual cases under the Optional Protocol to the ICESCR (OP-ICESCR) as well as in the growing number of ESCR cases being adjudicated before domestic and regional courts and

human rights bodies. The ESCR focus on positive obligations serves as a model for a more effective and transformative application of civil and political rights. As noted in several chapters in this Handbook, the UN Human Rights Committee, as well as the African and Inter-American Commissions and domestic courts, have recognized that the right to life, previously understood primarily as a negative right, must now be understood to impose positive obligations on governments to address threats to life linked to socio-economic deprivation. The recognition of positive as well as negative obligations in both categories of rights further merges those two categories, focusing on the interest to be protected and the most effective remedy, rather than on whether a violation was caused by state action or state inaction. Thus, ESCR practice is pivotal in ensuring access to justice for those whose human rights have been violated by inaction, neglect and exclusion and has been instrumental in establishing a more inclusive human rights practice and iterating a more egalitarian and accountable vision of rights-based social and economic orders.

As radical and potentially transformative as the implications of the ESCR law and practice described in the Handbook are, it must also be recognized that ESCR is still an emerging field of knowledge and practice. Complaints of violations of ESCR under the OP-ICESCR have only been possible since 2013. As at the time of writing, only 24 states have ratified the OP-ICESCR. By comparison, individual cases have been adjudicated under the Optional Protocol to the International Covenant on Civil and Political Rights (OP-ICCPR) for more than 40 years and 116 states have ratified the OP-ICCPR. Access to justice for ESCR in domestic and regional systems continues to be extremely limited, if not by the absence of explicit ESCR protections in law, then by other barriers to access facing those living in poverty, including cost, literacy, language barriers and absence of legal representation or knowledge of rights. Victims of violations of ESCR are more likely to experience courts as agents of the state in criminalizing poverty and homelessness than as venues in which to claim their rights.⁵ In many countries, even progressive members of the legal profession fail to support access to justice for claimants of ESCR, expressing paternalistic concerns that this may encourage reliance on elitist institutions and detract from political action. Many human rights funders are similarly disinclined to allocate resources to ESCR advocacy.

ESCR law and practice is still at an ‘experimental’ stage in which various strategies and approaches are being developed, tried and refined. Many challenges remain. Assessing compliance with the standard of ‘maximum of available resources’, addressing extraterritorial violations, linking individual to systemic claims and remedies, overseeing the implementation of structural remedies over time, responding to the mushrooming of reactionary politics (in countries such as Brazil, Hungary, India and the United States of America) and the extraordinary threat posed by climate change are among key challenges that are the subject of ongoing experiment and innovation.

While these and other aspects of ESCR adjudication and remedy may be considered ‘experimental’, the importance of advancing ESCR claims ought not to be in question. Any assessment of the benefits of ESCR litigation at these early stages of development must consider outcomes not only in relation to demands for effective remedies for particular ESCR

⁵ Human Rights Council, Guidelines for the Implementation of the Right to Adequate Housing: Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context (26 December 2019) A/HRC/43/43 para 4.

violations but also in relation to the need for transformations in the administration of justice and the understanding of rights more broadly. It is too early to assess outcomes in an instrumentalist manner. Any negative effect of losses in particular cases must be balanced against the damage done to human rights protections by the denial of access to justice to ESCR claimants. Indeed, unsuccessful ESCR claims may be necessary to challenge and ultimately disrupt unjust systems, as, even if unsuccessful, they may provide voice to or amplify the claims of marginalized groups.

ESCR in and of themselves, or the courts and human rights bodies charged with adjudicating claims and enforcing remedies, do not provide a complete solution to current socio-economic human rights challenges. They are, however, an essential ingredient. It will be difficult, if not impossible, to meet the human rights challenges of the 2020s without a robust, reinforced ESCR practice. The contemporary turn to ESCR is not simply a response to the need for human rights accountability in the socio-economic domain, or even in the dominant human rights paradigm. It is also a response to contradictions and exclusions in the prevailing socio-political and economic order that can no longer be accepted. This is because, beyond important material achievements from cases and campaigns, the power of rights lies in their ability to catalyze and support agents of change. The paradox of rights is that by drawing attention to the inequality, discrimination and exclusion of the current status quo, human rights affirm the untenability of injustice in the present and articulate the conditions and contours of justice in the future.⁶ The emancipatory potential of socio-economic rights as pursued in this Handbook is thus not so much to act as ends, or even instruments, but in articulating what equality, inclusion and freedom might look like and, through their instantiation, providing the space to organize and mobilize for progressive change.

STRUCTURE OF THE BOOK AND OVERVIEW OF CHAPTERS

The book proceeds in three Parts. Part I chapters (Chapters 1–5) are the framing chapters, which cover the relevant ESCR-related structures and mechanisms in the international, regional and domestic spheres.

Against the backdrop of the indivisibility and interdependence of all human rights, as well as the interplay of the various human rights systems outlined in Part I of the book, Chapter 1 provides an overview of the international human rights system that includes an analysis of the layers, applicability and universality of the system in its entirety. The chapter first traces the development – largely as a response to the atrocities of World War II – of the Charter-based system plus the two cornerstone international human rights treaties, the International Covenant on Civil and Political Rights (ICCPR) and the ICESCR. Thereafter, the chapter provides a brief overview of each of the international treaties in the treaty-based system, with a focus on ESCR.

Chapter 2 discusses the main UN treaty focused on the protection of economic, social and cultural rights: the ICESCR, as well as its optional complaints procedure, the OP-ICESCR. It covers four aspects: (a) the historical and contextual framework for the adoption of both treaties; (b) the main rights, principles, and state obligations recognized by the ICESCR; (c) the

⁶ Wendy Brown, 'Suffering the Paradoxes of Rights' (2000) 7 *Constellations* 208, stating this from a feminist perspective.

specific mechanisms of protection, including the jurisprudence of the Committee on Economic, Social and Cultural Rights (CESCR); and (d) CESCR's nascent implementation procedure for remedies in individual communications. While the entry into force of the Optional Protocol in 2013 strengthened the view that ESCR matter as much as civil and political rights, the recent establishment of a participatory follow-up process could enhance the levels of implementation at the UN Treaty Body System. In the coming years, the joint work of a strong CESCR and innovative civil society organizations might lead the system to have greater visibility not only in the protection of ESCR but also in the protection of human rights more broadly.

Chapter 3 provides an overview of the normative frameworks on ESCR and the mechanisms relevant to their enforcement in the African human rights system. The chapter begins with the evolution of ESCR at the African regional level. Thereafter, the chapter provides an overview of the specific ESCR recognized in key African regional human rights treaties and the correlating state obligations, as well as the key regional mechanisms relevant to their enforcement.

Beginning with an overview of Europe's national welfare and social citizenship history, Chapter 4 highlights that all European states have ratified the ICESCR and the eight core International Labour Organization (ILO) conventions, and 43 of the 47 Council of Europe member states have also ratified the European Social Charter (ESC). Traversing the complex European arrangements for human rights generally and ESCR rights specifically, the chapter examines the content and trajectory of relevant rights under the ESC, European Convention on Human Rights (ECHR) and European Union (EU) law. It highlights the unique 'collective complaint' mechanism that allows categories of collective organizations to complain to the European Committee on Social Rights and explains the jurisdiction of the European Court of Human Rights, the European Committee on Social Rights, and the Court of Justice of the EU.

Chapter 5 sets out the legal framework for the protection of economic, social, cultural and environmental rights (ESCR) in the Inter-American System of Human Rights (IASHR), followed by a description of the monitoring and protection mechanisms. It tackles the IASHR's most salient jurisprudential and doctrinal developments and highlights the system's commitment to human rights defenders and the community engaged in the defense of ESCR. Despite its various limitations, the IASHR has made significant contributions to the development of ESCR in the Americas. The Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR) have conscientiously developed the tools available to them through their doctrine, jurisprudence, interim measures, rapporteurships, and reparations to extend the protection of ESCR. As highlighted in the chapter, the IASHR's remarkable interpretations of the social rights aspects of fundamental rights, as well as the recognition and enforcement of ESCR under the American Convention, provide a solid foundation for the further advances necessary to meet current and ongoing challenges.

Part II chapters (Chapters 6–12) provide the details, contours, debates, interpretation and current developments of each thematic right, incorporating the relevant scholarship and jurisprudence from the different systems.

Chapter 6 reviews the scope and content of the right to social security and describes how courts and quasi-judicial bodies have ensured it in both international and domestic contexts. Despite its early recognition as a right in the Universal Declaration of Human Rights, in the ICESCR, within the ILO and in regional systems, it was several decades before social security gained political support and acceptance as a critical tool for development and poverty reduction. Today there is renewed emphasis on the right to social security and it has been placed at the center of the 2030 Agenda for Sustainable Development. Despite increased attention to and

remarkable progress in the coverage, however, the right to social security is not yet a reality for most of the world's population. This chapter argues that the dramatic coverage gap in the enjoyment of the right to social security derives in part from a lack of understanding about the meaning of a rights-based approach to social protection.

Chapter 7 highlights education as a multi-dimensional empowerment right, which is a critical component of achieving many other ESCRs. Using relevant cases and commentary, the authors pursue a 'four A' scheme – availability (the obligation to establish a system of schools and to provide a conducive environment for teaching and learning), accessibility (physical and economic accessibility, as well as non-discrimination), acceptability (religious convictions and private education) and adaptability (inclusivity and discipline) – to explore the contours of the right and the progress made in terms of achieving the right. Noting a relatively high level of recognition of the right to education internationally, regionally and domestically, the authors nonetheless flag some important fault line issues including the role of private education, the need for greater clarity and compliance regarding minimum standards and the need to ensure adequate education for vulnerable groups such as migrants.

As traversed in Chapter 8, the human right to adequate food is something of a paradox. Since its recognition in 1948 as a component of an 'adequate standard of living' in Article 25 (1) of the Universal Declaration of Human Rights, there has been significant attention paid to the development of norms, policies and implementing frameworks for the right to food at the national, regional and international levels, and there has been significant social movement mobilization related to the right to food particularly in the wake of the global food price and financial crises in 2008. At the same time, hunger and malnutrition are increasing in many parts of the world and there remains sustained opposition from certain state and non-state actors to the very existence of a legally enforceable right to food. Chapter 8 provides a contextual analysis of this paradoxical situation, starting with an overview of the historical development and content of international, regional and a selection of national frameworks on the human right to adequate food and inter-related rights such as the rights to land, water and other natural resources, work, health and social security. The chapter also focuses on several of the emerging issues connected to the promotion and protection of the right to food in the context of feminist critiques of food systems, food sovereignty movements and the rights of indigenous and smallholder farmers, the creation of corporate accountability frameworks and the challenges that climate change poses for the realization of the right to food.

Chapter 9 begins by contextualizing the right to health as closely related to the right to dignity and deeply impacted by power structures including class, gender and race. Canvassing the social and political determinants of health and medical care, the chapter pursues a human rights-based approach to health in its analysis of contested contours of the right to health within the international human rights system, including transboundary issues and regimes such as Trade-Related Aspects of Intellectual Property (TRIPS) and Extra-Territorial Obligations (ETOs).

Chapter 10 surveys the international, regional and domestic entrenchment of the right to adequate housing, together with the ways in which textual formulations of the right have been deployed in concrete contexts. The chapter argues that assertions of housing rights often mean the limitation of property rights and the disruption of economic hierarchies that are based on them. This claim is illustrated by an analysis of housing rights jurisprudence from around the world, with a focus on the South African national jurisprudence that is arguably the most coherent housing rights-related corpus of litigation, and dealing thematically with the rights

of informal settlers, unlawful occupiers, residential tenants and women with precarious land tenure.

Chapter 11 considers two human rights that were not explicitly recognized in the UDHR or the ICESCR – the rights to water and sanitation. These rights were affirmed by the UN General Assembly and the UN Human Rights Council only in 2010. Though dramatic inequality in access to safe drinking water and sanitation persists, the decade since the rights to water and sanitation were finally recognized has seen significant progress in understanding their content, principles and obligations as well as in developing laws, policies and practices for the realization of these rights. After laying out the legal foundations and content of the rights to water and sanitation under international human rights law, this chapter explores how key human rights principles of equality, transparency, accountability and participation apply and describes State obligations to implement rights-based planning, adequate financing and effective monitoring. The challenges of ensuring services for informal settlements and rural areas are explored, as well as the regulatory frameworks that must be applied to the range of service providers, both public and private, formal and informal. Finally, the chapter describes important advances in ensuring access to justice for the rights to water and sanitation, whereby effective remedies have been ensured for violations of States' obligations not only to respect, but also to protect and fulfil the rights to water and sanitation.

Chapter 12 tackles three main issues: (a) legal provisions and cross-cutting principles regarding the right to work and rights at work, such as the minimum wage, equal pay for equal work, health and safety at work, freedom from harassment, paid leave, trade union affiliation and the right to strike, under the ICESCR, drawing on the normative interpretation of the UN Committee on Economic, Social and Cultural Rights and the technical guidance of the ILO; (b) the jurisprudence under the Optional Protocol to the ICESCR and the Collective Complaints Procedure of the European Committee of Social Rights; and (c) human rights indicators. The concept of work and workers has evolved from the time of drafting the Covenant in line with economic and social changes across the world to include new categories of workers and raise the accountability bar on the part of public authorities and employers regarding working conditions that not only contribute to the well-being of workers and the success of enterprises, but ultimately reinforce the fabric of our societies. The understanding of work will continue to evolve but it will not cease to be an element of our individual and collective identity.

Chapter 13 examines the concepts of minimum core and reasonableness as standards of review that courts or international bodies may use in assessing state compliance with their socio-economic rights obligations and how the standards might contribute to the effective enjoyment of ESCR. The chapter considers the conceptual foundations of the standards; key related normative developments and practice at the international, regional and domestic levels; critical fault lines in the context of the standards; and strategies to sharpen their potential to realize the transformative power of human rights. The chapter argues that for the transformative potential of socio-economic rights to be truly realized, in addition to these standards, other factors – such as respect for the rule of law, political will, independence of the judiciary and the momentum of involved civil society organizations and social movements – are essential. In the end, as the chapter avers, whatever approach is adopted in terms of standards, the aim should always be to interpret ESCR in a way that addresses not only individual needs but also systemic concerns, and foregrounds the needs of the most vulnerable.

Chapter 14 examines challenges in holding governments accountable to the obligation to progressively realize economic, social and cultural rights to the maximum of available

resources. The chapter explains the key normative components of the obligation, accentuating challenges of its interpretation addressed by human rights monitoring bodies as well as considering the means and methods that can be used to assess compliance with the norms in practice. The chapter argues for ‘more comprehensive, context-sensitive analytical frameworks that assess progress in rights realization in light of a state’s fiscal and other policy efforts’ and for full and effective use of the ‘redistributive and egalitarian potential of the concept of progressive realization’. It concludes by highlighting some strategic opportunities and entry points for deploying these tools in the human rights, development and economic policy arenas, in ways that can advance meaningful accountability and transformative policy change.

Chapter 15 considers the concept of the interdependence of human rights in relation to the historical struggle of ESCR claimants for equality in dignity and rights. It traces the evolution of the idea of interdependence from an earlier notion premised on the unequal status of ESCR to a modern conception premised on equal voice, equal access to justice and ‘human rights made whole’. The author argues that both civil and political rights and ESCR have been damaged by their separation into two categories and that a failure to adequately engage with the principle of interdependence allows many of the most egregious systemic violations of human rights, lying in the interstices between categories of rights, to go unchallenged. It argues for a new form of unified human rights practice grounded in the lives of rights holders, recognizing the complexity and multidimensionality of struggles for equal dignity and rights, and rejecting the differential treatment of ‘positive’ and ‘negative’ rights claims by courts and human rights bodies. It calls for a more inclusive and transformational paradigm of human rights based on a modernized understanding of the interdependence of human rights, recognizing the critical role that governments and international institutions must play, and insisting on the full inclusion of those whose claims have been marginalized or silenced.

Chapter 16 discusses the important roles that national human rights institutions (NHRIs) can play in advancing economic and social rights. It describes the emergence of NHRIs, considers some of the applicable international standards and examines specific features of NHRIs, including their institutional flexibility, their mandate and their location within the scheme of governance. The chapter analyzes how NHRIs have used public inquiries, monitoring budgets and policy, and litigation to advance economic and social rights, with illustrations from specific countries. It argues that NHRIs should see themselves as part of a larger institutional landscape that seeks social transformation through a broad range of actions. NHRIs, because of their ability to initiate a variety of interventions, their constitutional or statutory mandate, and their location between state and civil society, from which they are able to equally engage with both, are uniquely placed to intervene to advance ESR. The chapter considers the factors that will drive their transformative impact, including a vision and a plan of action that encompasses strategic engagement, principled decision-making and creative interventions.

In view of the intimate connection between economics and human rights, Chapter 17 examines how a human rights framework that gives due regard to ESCR can be applied to assess and evaluate economic policies. The chapter explains the normative framework for economics and illustrates how various human rights obligations and principles could be applied to economic policy. To illustrate the connections between human rights and economic policy, the chapter examines a number of interventions: government spending, taxation, deficit spending and debt, and monetary policy. As globalization increasingly affects both economic policy formulation and the ability of governments to meet their human rights obligations, the chapter also specifically engages with the human rights concept of ETOs and explores their implica-

tions for policy. The chapter argues for government accountability for human rights violations resulting from the conduct of its economic policies and the need to promote ‘a vibrant and participatory democracy where the government can discipline the actions of finance and transnational corporations and correct power imbalances in the economy’.

Chapter 18 highlights the significance of the 2030 Agenda for sustainable development for ESCR. It asserts that, much like the Millennium Development Goals, the SDGs are already altering and conditioning the development landscape, especially in terms of funding flows and data availability. The chapter analyzes how far the 2030 Agenda and ESCR are complementary and argues that, based on a nuanced understanding of the content, scope, strengths and weaknesses of the Agenda, ESCR advocates can use the SDGs as a lever for improvements in ESCR enjoyment.

The Handbook ends with a chapter on mobilization and litigation action to confront the systemic challenge posed by the contemporary global climate crisis, which poses severe threats to ESCR. As canvassed in Chapter 19, mitigation failure (inability to contain emissions) threatens ecosystems and constitutes a risk or violation of the ESCR of current and future humans. Adaptation failure (lack of action to protect those already at risk) is a breach of their ESCR. But climate mitigation and adaptation measures may themselves also threaten ESCR: closing of high-emission industries may cause job and livelihood loss; new, green energy sources (hydroelectric dams, windmills, soybean farms) and deforestation-prevention programs may cause displacement and culture loss. Highlighting that litigation is increasingly important as a strategy to force action to address the climate crisis, Chapter 19 outlines the emergency of climate litigation and the role of ESCR within it, surveying the cases being lodged before domestic and international courts and tribunals across the globe to force climate mitigation policies; compliance with existing rules; and more equitable policies for climate adaptation.