Growth versus Austerity: Protecting, Respecting, and Fulfilling International Economics and Social Rights during Economic Crises

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Economic crises have often been the reason for the implementation of austerity measures employed by States, measures which tend to come at the cost of other basic rights, such as social security. With the coming of the International Covenant for Economic, Social, and Cultural Rights however, a new trend of rights-protection is emerging. This trend focuses on the individual as an object of international law, and seeks to use the Covenant as an instrument to set basic standards for the enforcement of rights, even in the face of economic crises.

In this Essay, the Author expounds on seven basic rights found in the Covenant (ICESCR) which have minimum levels that States must achieve, even given adjustments their governments have to make in the face of more challenging times largely brought about by fluctuating financial situations. The Author points out that the ICESCR obligates the States to secure, protect, and fulfill these rights, and decrees that a State who fails to do so has the burden of proving that it has exhausted every means possible to achieve the goals set out — including asking for international aid.

While the ICESCR provides a more solid standard upon which to judge the policy responses of states to economic crises, the work also points out that the actual processes of evaluation, both quantitative and qualitative, are still developing. While the United Nations provides a general framework with which to work with, the Author recognizes that there is still room for improvement. Dubbing it an “incipient work in progress,” the Author provides a discussion on the initial attempts to evaluate State performance. She concludes that further inquiry must be done, not only as to compliance with the ICESCR but also regarding the necessity and proportionality of the policy measures implemented by the State parties. The ultimate question is whether the ICESCR will develop enough to be durable in the face of continually evolving austerity measures implemented in response to the correspondingly evolving economic situation.