

**Utopia or Reality?**  
**The Implementation of a Human Rights-Based Approach**  
**to the *New Partnership for Africa's Development***

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## List of Acronyms and Abbreviations

AHSG	Assembly of Heads of State and Government
AIDS	acquired immune deficiency syndrome
AI	Amnesty International
AIUSA	Amnesty International USA
AU	African Union
CCIC	Canadian Council for International Cooperation
CP	civil and political
ESC	economic, social and cultural
FIDH	International Federation for Human Rights
G8	Group of Eight (leading industrial nations): Canada, France, Germany, Italy, Japan, Russia, United Kingdom, USA
GERA	Gender and Economic Reforms in Africa
HIPC	highly indebted poor country
HIV	human immune deficiency virus
HRW	Human Rights Watch
HSGIC	Heads of State and Government Implementation Committee
IBRD	International Bank for Reconstruction and Development
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDA	International Development Association
IFI	international financial institution
IGO	intergovernmental organisation
IMF	International Monetary Fund
LDC	less developed country
MAP	Millennium Africa Recovery Plan
NAI	New African Initiative
NEPAD	New Partnership for Africa's Development
NGO	nongovernmental organisation
OUA	Organisation of African Unity
ODA	official development assistance
PRSP	poverty reduction strategy paper
RBA	rights-based approach
SAP	structural adjustment programme

SAPRIN	Structural Adjustment Participatory Review International Network
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNHCHR	United Nations High Commissioner for Human Rights
UNICEF	United Nations Children's Fund
WHO	World Health Organisation
WTO	World Trade Organisation
WWF	World Wide Fund for Nature

## Abstract

The intention of this thesis is to assess the World Bank's SAPs as the principal economic impediment to implementing an RBA to NEPAD. This assessment is sought to contribute to calculating the feasibility for implementation. It is assumed that the RBA is the best approach currently available to further the significant cause of sustainable human, social and economic development in developing countries generally, and in Africa in particular. Sustainable development in Africa is recognised as an extremely significant step in promoting peace and security on the continent and internationally. Various NGOs, development institutes and scholars have argued that NEPAD lacks an RBA to development. However, while the critics are many, the question has not been voiced as to the obstacles Africa and international society face in applying an RBA to NEPAD. In an attempt to narrow this gap, the World Bank's SAPs are analysed.

It has been shown many times that adjustment programmes do not adhere to the human rights standards spelled out, in particular, in the articles of the ICESCR. In addition, SAPs fail to incorporate human rights principles such as participation and accountability. Consequently, because SAPs are not based on international human rights standards and principles, they do not fulfil the requirements of an RBA to development. It follows that the approach cannot be applied to NEPAD as long as the World Bank's SAPs fail to adhere to these standards and principles and, thus, lead to the violation of people's human rights in developing countries. To reach a reasonable conclusion on the Bank's current human rights practices, its employment of SAPs in developing countries is analysed. Moreover, David Held's regime of liberal international sovereignty is examined and applied to this case. Both investigations discover independently of each other that the implementation of an RBA to NEPAD is unrealistic under the current circumstances.

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# Chapter 1

## 1. Introduction

For a very long time, the disciplines of human rights and development were perceived as two separate undertakings. Therefore, discourse on their interrelationship was sparse. However, over the last decade there has been a growing convergence of these two fields. Today, scholars increasingly argue that one cannot be advanced successfully without the other. United Nations Secretary-General, Kofi Annan, provides one of the most recent comments in his 2005 report "In Larger Freedom." He argues that in the interconnected world in which we live, human rights and development cannot be comprehended as two separate subjects. Instead, they must be understood as parts of a whole that reinforce each other.<sup>1</sup> Similarly, Peter Uvin maintains that human rights and development are useless if considered independently, for both develop meaning only when becoming integrated.<sup>2</sup> This is so, Uvin explains, because "all worthwhile processes of social change are simultaneously rights based and economically grounded, and should be conceived of in such terms."<sup>3</sup>

The incorporation of human rights into the practice of development can occur at stages of varying intensity, the highest level of integration being the so-called human rights-based approach (RBA) to development.<sup>4</sup> This approach has been defined on the web-page of the United Nations High Commissioner for Human Rights (UNHCHR) as "a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights."<sup>5</sup> More specifically, this approach incorporates the standards and principles of the international human rights system into the plans, policies and processes of development programming. Whereas the standards are those included in the international treaties and declarations, the major guiding principles contained in the RBA to development are participation, accountability, non-discrimination, empower-

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<sup>1</sup> See UN General Assembly, Kofi Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All* (New York: 21 March 2005), A/59/2005.

<sup>2</sup> See Peter Uvin, *Human Rights and Development* (Bloomfield: Kumarian Press, 2004), 122.

<sup>3</sup> Uvin, *Human Rights and Development*, 122.

<sup>4</sup> See Uvin, *Human Rights and Development*, 50. For a good overview on all the levels of integration of human rights into development see Peter Uvin's book, *Human Rights and Development*.

<sup>5</sup> United Nations High Commissioner for Human Rights (UNHCHR), "Rights-Based Approaches." <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

ment and equity.<sup>6</sup> Because of this strong integration of human rights into the development sphere, Uvin states that the RBA constitutes a “fundamental rethinking of the entire development practice: its ideology, its partners, its aims, its processes, its systems and procedures.”<sup>7</sup>

Undeniably, such a fundamental rethinking process will face a vast number of different obstacles, including technical, procedural, political, cultural, law-related and economic impediments, to name a few. Discovering these and providing possible ways for successfully addressing them represents, thus, an important contribution to promote the cause of the RBA to development. It is acknowledged that the RBA will not be the solution to all problems experienced in the field of development. Yet, this thesis arises from the assumption that the RBA is the best approach currently available to further the significant cause of sustainable human, social and economic development in developing countries generally, and in Africa in particular. Sustainable development in Africa is recognised as an extremely significant step to promote peace and security on the continent and internationally.

This thesis intends to assess the World Bank’s structural adjustment programmes (SAPs) as the principal economic obstacle to implementing the RBA to a specific development programme: the *New Partnership for Africa’s Development*, also known as NEPAD. In the face of the continuing marginalisation of Africa from the globalisation process and due to the failure of economic strategies imposed by internal as well as external actors, in 2001 the African governments of South Africa, Senegal, Nigeria, Egypt and Algeria drafted NEPAD.<sup>8</sup> This programme is the final incarnation of reform proposals advised over the years by African leaders. It translates the earlier ‘African Renaissance’ project into a policy concept.<sup>9</sup> This proposed partnership between African countries and various developed states, particularly the Group of Eight (G8), aims primarily at eradicating poverty and achieving sustainable growth on the African conti-

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<sup>6</sup> See Amparo Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners* (UNDP Nepal, August 2003), 12. UNHCHR, “Rights-Based Approaches.” <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

<sup>7</sup> Uvin, *Human Rights and Development*, 50.

<sup>8</sup> See International Federation for Human Rights (FIDH), *A Human Rights Approach to the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM)* (Paris: FIDH, 2004), 21-25.

<sup>9</sup> See Henning Melber, “The New Partnership for Africa’s Development – Scope and Perspectives.” In *The New Partnership for Africa’s Development (NEPAD) – African Perspectives*, Discussion Paper 16, 6-13 (Uppsala: Nordiska Afrikainstitutet, 2002), 6-7.

ment.<sup>10</sup> The NEPAD base document states that the resources needed to accomplish these goals, such as capital, technology and human skills are in plentiful supply. “What is required to mobilise these resources and to use them properly, is bold and imaginative leadership that is genuinely committed to a sustained *human development* effort and poverty eradication, as well as a new global partnership based on shared responsibility and mutual interest (emphasis added).”<sup>11</sup> The G8, at the 2002 G8 summit in Kananaskis, Canada, responded to this document with the so-called *Africa Action Plan*. This plan was created to support the idea of NEPAD and to provide a solid basis for future cooperation between Africa and international society.<sup>12</sup>

While some aspects of this new initiative are laudable, NEPAD is being criticised by various sources for its lack of an RBA to development. Although NEPAD addresses the issue of human rights in sections of its partnership programme, this has been done insufficiently, without adhering to the aforementioned standards and principles that constitute the RBA.<sup>13</sup> This is due to the existence of a variety of impediments to implementing such an approach to NEPAD. The major obstacle in the economic sphere is the World Bank’s employment of SAPs. This particular hindrance is faced by Africa as well as international society, for both play an equally active part in the development and upholding of this programme. The intention of this thesis is the examination of this impediment. This is followed by an assessment of the feasibility of implementing an RBA to NEPAD. Together, these two steps form a significant contribution to advancing sustainable human, social and economic development on the continent of Africa.

### **1.1 Definition of Key Terms**

Due to the nature of the topic, the thesis employs a number of key terms. Because these can be described in various ways, it is helpful to provide the reader with a more

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<sup>10</sup> See Heads of State and Government Implementation Committee (HSGIC), *The New Partnership for Africa’s Development (NEPAD)* (Abuja: HSGIC, 23 October 2001), para. 1.

<sup>11</sup> HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, para. 6.

<sup>12</sup> See Group of Eight (G8), *G8 Africa Action Plan* (Kananaskis: G8, 27 June 2002), 1. In this thesis, the term ‘international society’ refers to the meaning established by Hedley Bull. He explains that an international society “exists when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions.” Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, 2nd ed. (London: Macmillan, 1995), 13.

<sup>13</sup> See Canadian Council for International Co-operation (CCIC), *The New Partnership for Africa’s Development (NEPAD): A Commentary* (Ottawa: CCIC, 2002), 4-5. FIDH, *A Human Rights Approach to the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 15-18. Bronwen Manby, “The African Union, NEPAD, and Human Rights: The Missing Agenda,” *Human Rights Quarterly* 26 (2004): 984. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa’s Development in the New Millennium; In Preparation for the G8 Summit* (Montréal: Rights and Democracy, 2002), 1-2.

precise definition of the terms as used in this thesis. Apart from the ‘human rights-based approach to development,’ which has already been introduced and which will again be addressed in the following chapter, the other terms to be defined are: human rights; development; economic development; human development; social development; sustainable development; and the right to development.

### *1.1.1 Human Rights*

Every definition of ‘human rights’ must bear in mind that this is a highly contested matter, different classifications existing in abundance. That said, it can be argued that human rights are the rights possessed by all people simply because they are human beings, which is commonly known as the ‘universality’ of human rights.<sup>14</sup> However, they are not just principles or values related to human dignity. They are legal guarantees providing claim-holders such as individuals and groups with entitlements and placing obligations on duty-bearers, the latter consisting mainly of states but also increasingly comprising intergovernmental organisations (IGOs) and multinational corporations.<sup>15</sup> As such, human rights are defined with reference to the international human rights declarations and conventions including the Universal Declaration of Human Rights and the International Covenants on Civil and Political as well as on Economic, Social and Cultural Rights (ICCPR and ICESCR respectively). The United Nations Development Programme (UNDP) in a more emotive manner states that “human rights express our deepest commitments to ensuring that all persons are secure in their enjoyment of the goods and freedoms that are necessary for dignified living.”<sup>16</sup>

### *1.1.2 Development*

The history of the word ‘development’ is a long and complicated one dating back to the 18<sup>th</sup> century where it was used as a biological metaphor. In 1768 Justus Moser, the conservative founder of social history, employed the word ‘Entwicklung’ to refer to the gradual process of social change. He thereby shifted the earlier biological metaphor to the social sphere.<sup>17</sup> Once the term had entered this sphere, the word ‘development’ went through many transformations and today has become a “mere algorithm whose

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<sup>14</sup> See Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca: Cornell University Press., 2003), 1.

<sup>15</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 3.

<sup>16</sup> United Nations Development Programme (UNDP), *Human Development Report 2000: Human Rights and Human Development* (New York: Oxford University Press, 2000), 16.

<sup>17</sup> See Gustavo Esteva, “Development,” in *The Development Dictionary: A Guide to Knowledge as Power*, ed. Wolfgang Sachs, 6-25 (Johannesburg: Witwaterstrand University Press, 1992), 8.

significance depends on the context in which it is employed.”<sup>18</sup> Also and similar to the expression of ‘human rights’, there exist a great number of different definitions regarding this term. In its most general meaning, development can be defined as “a favourable change, a step from the simple to the complex, from the inferior to the superior, from worse to better.”<sup>19</sup> Applied to the issue of development as it is used in this thesis, Gilbert Rist comes up with the following definition: “‘Development’ consists of a set of practices, sometimes appearing to conflict with one another, which require – for the reproduction of society – the general transformation and destruction of the natural environment and of social relations. Its aim is to increase the production of commodities (goods and services) geared, by way of exchange, to effective demand.”<sup>20</sup> However, to obtain a rather concrete definition of the phrase, it is more useful to introduce the various subcategories of the term development to differentiate its diverse meanings.

### 1.1.3 Economic Development

‘Economic development’ largely refers to economic growth in terms of growth in per capita gross domestic product in countries to ensure the well-being of their populations.<sup>21</sup> However, as Arjun Sengupta, the Independent Expert on the Right to Development, notes, economic growth can be accompanied by augmented inequalities or disparities and rising concentrations of wealth and economic power as well as the ignoring of human rights standards relating to economic, social and cultural (ESC) but also civil and political (CP) rights.<sup>22</sup> Despite such criticisms that have existed for decades, Jack Donnelly declares that the definition of economic development “continues to dominate the economic, political and popular mainstreams.”<sup>23</sup>

### 1.1.4 Human Development

Regardless of the predominance of economic development thinking, there have been steady movements towards more people-centred development known mostly as ‘human development.’ Today, it plays an important role as the counterpart to economic development. The UNDP in its *Human Development Report 2000 on Human Rights*

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<sup>18</sup> Esteva, “Development,” 10.

<sup>19</sup> Esteva, “Development,” 10.

<sup>20</sup> Gilbert Rist, *The History of Development: From Western Origins to Global Faith*, (London: Zed Books, 1997), 13.

<sup>21</sup> See Donnelly, *Universal Human Rights in Theory and Practice*, 194. UN Economic and Social Council, Arjun Sengupta, *Review of Progress and Obstacles in the Promotion, Implementation, Operationalization, and Enjoyment of the Right to Development* (Geneva: 17 February 2004), E/CN.4/2004/WG.18/2, 4.

<sup>22</sup> See Arjun Sengupta, “On the Theory and Practice of the Right to Development,” *Human Rights Quarterly* 24 (2002): 848.

<sup>23</sup> Donnelly, *Universal Human Rights in Theory and Practice*, 194.

and *Human Development* defines the term as follows: “Human development is the process of enlarging people’s choices, by expanding human functionings and capabilities. Human development thus also reflects human outcomes in these functionings and capabilities. It represents a process as well as an end.”<sup>24</sup> This definition draws on Amartya Sen’s book, *Development as Freedom*. There, he identifies development as the expansion of capabilities or, put differently, human freedoms to lead a dignified life of respect and value.<sup>25</sup>

Although human freedom is the purpose and motivation of human development, as it is of human rights, these two concepts are not one and the same. Both have as their common objective to secure basic freedoms but they do so through different models and coming from different traditions. While human rights are legal norms, which protect people from abuses and deprivations and which guarantee human freedoms, human development is a dynamic process of augmenting human capabilities to secure those freedoms.<sup>26</sup> Hans-Otto Sano in his comparison between human rights and general development theory states that differences “exist between the two traditions. Human rights has as its subject norms, rules and duties together with their institutional foundations, whereas development theory has general processes of change, resource control/conflict, and resource allocation at its core.”<sup>27</sup>

### 1.1.5 Social Development

In 1995, heads of state gathered in Copenhagen, Denmark, for the World Summit for Social Development. Chapter 1 of the *Programme of Action* of this Summit states that “the ultimate goal of social development is to improve and enhance the quality of life of all people.”<sup>28</sup> The Copenhagen Declaration on Social Development explains that social development addresses severe social problems including poverty, unemployment and social disintegration experienced by many countries.<sup>29</sup> Therefore, the Declaration further states that “the goals and objectives of social development require continuous efforts to reduce and eliminate major sources of social distress and instability for the fam-

<sup>24</sup> UNDP, *Human Development Report 2000: Human Rights and Human Development*, 17.

<sup>25</sup> See Amartya Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999), 3.

<sup>26</sup> Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 8. UNDP, *Human Development Report 2000: Human Rights and Human Development*, 2.

<sup>27</sup> Hans-Otto Sano, “Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development,” *Human Rights Quarterly* 22 (2000): 741-742.

<sup>28</sup> World Summit for Social Development, *Report of the World Summit for Social Development*, “Programme of Action” (Copenhagen, 1995), A/CONF.166/9, ch. 1.

<sup>29</sup> See World Summit for Social Development, *Report of the World Summit for Social Development*, “Copenhagen Declaration on Social Development” (Copenhagen, 1995), A/CONF.166/9, intro.

ily and for society.”<sup>30</sup> These comprise, among others, the following conditions: chronic hunger; malnutrition; illicit drug problems; organised crime; corruption; foreign occupation; armed conflicts; illicit arms trafficking; terrorism and xenophobia.<sup>31</sup> Generally, social development can be achieved by focussing on values, objectives and priorities which enhance the well-being of people. Moreover, these issues strengthen and promote conducive institutions and policies.<sup>32</sup>

#### 1.1.6 Sustainable Development

Similar to the general term of ‘development’ and the expression of ‘human development’, the definition of ‘sustainable development’ has also changed over the years. As the United Nations Economic, Scientific and Cultural Organisation (UNESCO) explains, the concept of sustainable development first emerged in the 1980s when it became apparent that there exists an important link between economic and social process and the environment together with the stewardship of natural resources.<sup>33</sup> In 1987, the World Commission on Environment and Development in its publication *Our Common Future* defined sustainable development as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”<sup>34</sup> The document *Caring for the Earth: A Strategy for Sustainable Living*, published in 1991 by the World Conservation Union, the United Nations Environment Programme and the World Wide Fund for Nature, complemented the definition presented by *Our Common Future*. It stated that sustainable development means “improving the quality of human life while living within the carrying capacity of supporting ecosystems.”<sup>35</sup> Finally, it can be said that the vision of sustainable development has expanded to viewing human and social aspects such as solidarity, equity, partnership and cooperation as being crucial to environmental protection.<sup>36</sup> Related to this, UNESCO declares: “By the time of the Johannesburg Summit in 2002 the vision broadened to en-

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<sup>30</sup> World Summit for Social Development, *Report of the World Summit for Social Development*, “Copenhagen Declaration on Social Development,” part A.

<sup>31</sup> See World Summit for Social Development, *Report of the World Summit for Social Development*, “Copenhagen Declaration on Social Development,” part A.

<sup>32</sup> See World Summit for Social Development, *Report of the World Summit for Social Development*, “Programme of Action,” ch. 1.

<sup>33</sup> See United Nations Educational, Scientific and Cultural Organization (UNESCO), “UN Decade for Education for Sustainable Development (2005-2014),” <http://unesco.org/education> (accessed April 22, 2005).

<sup>34</sup> World Commission on Environment and Development, *Our Common Future* (Oxford: Oxford University Press, 1987), 43.

<sup>35</sup> International Union for Conservation of Nature and Natural Resources, United Nations Environment Program (UNEP) and World Wide Fund for Nature (WWF), *Caring for the Earth: A Strategy for Sustainable Living* (Gland: World Conservation Union; UNEP; WWF, 1991), 10.

<sup>36</sup> See UNESCO, “UN Decade for Education for Sustainable Development (2005-2014),” <http://unesco.org/education> (accessed April 22, 2005).

compass social justice and the fight against poverty as key principles of development that is sustainable.”<sup>37</sup>

### *1.1.7 The Right to Development*

When speaking of human rights, the notion exists that there are three different generations of rights. While CP rights belong to the first category of rights, ESC rights are part of the second generation of rights.<sup>38</sup> Finally, there are rights of a third generation, the so-called solidarity rights, which include the right to peace, the right to environment and the right to development.<sup>39</sup> The Declaration on the Right to Development, adopted by the General Assembly in December 1986, defines this right in the following terms: “The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”<sup>40</sup> Referring to this sentence, Sengupta in his various UN reports and articles, explains that “the right to development relates to a process of development which leads to the realization of each human right and of all of them together and which has to be carried out in a manner known as rights-based.”<sup>41</sup> In doing so, Sengupta points out the important fact that the right to development does not only have as its objective the fulfilment of human rights. Equally important, the right to development refers to a process of development, which is also a human right.<sup>42</sup>

## **1.2 Rationale**

Since the inauguration of NEPAD in October 2001, the amount of literature focussing on the lack of an RBA to this African development programme has steadily increased. Nongovernmental organisations (NGOs) such as Amnesty International (AI) and Human Rights Watch (HRW), a number of development organisations and also academics and other professionals in the fields of human rights and development have criticised NEPAD on this account.<sup>43</sup> However, while the critics are many, the question has

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<sup>37</sup> UNESCO, “UN Decade for Education for Sustainable Development (2005-2014),” <http://unesco.org/education> (accessed April 22, 2005).

<sup>38</sup> See Uvin, *Human Rights and Development*, 14.

<sup>39</sup> See N. J. Udombana, “The Third World and the Right to Development: Agenda for the Next Millennium,” *Human Rights Quarterly* 22 (2000): 761.

<sup>40</sup> Declaration on the Right to Development. Adopted by General Assembly Resolution 41/128 on 4 December 1986.

<sup>41</sup> Sengupta, “On the Theory and Practice of the Right to Development,” 846.

<sup>42</sup> See Sengupta, “On the Theory and Practice of the Right to Development,” 851.

<sup>43</sup> See Amnesty International USA (AIUSA), “Civil Society, Democracy, Human Rights and NEPAD: The Missing Links,” Testimony of Adotei Akwei, African Advocacy Director, Amnesty International USA before the U.S. House of Representatives Africa Subcommittee, September 18 2002,

not been voiced as to the obstacles Africa and the international society confront in implementing an RBA to NEPAD. Yet, many hindrances exist. Among them are technical, political, law-related and economic impediments. In an attempt to address this question and, thus, narrow the gap, the economic impediment of the World Bank's SAPs to such an approach to NEPAD is analysed.

The results concerning the research on this principal economic obstacle will be of great significance to the human rights and development professionals and to academia. Most importantly, an examination of the contemporary literature reveals that following an RBA to development does have a series of advantages. This represents one of the key assumptions of the thesis and it will be further elucidated in the next chapter. Moreover, identifying and assessing this major economic hindrance will open up the opportunity to calculate the feasibility of implementing an RBA to NEPAD. In turn, this will contribute to promoting sustainable human, social and economic development on the African continent.

The reason for selecting the continent of Africa as the regional research focus is easy to justify. Africa has become the prime example of a continent whose interior problems become ever more internationalised, thus posing growing human security challenges to everyone. Conflicts spill over to neighbouring states, the spread of diseases is immune to any borders and the future consequences of sustained poverty are yet unknown. However, in an age of different global crises that increasingly engulf us all, can we any longer defend policies of strictly national interest as happens so often in the case of Africa? Despite the G8's and other international donors' commitment towards NEPAD and thus Africa as a whole, a certain degree of indifference is apparent at the same time. For example, Stefan Mair notes that politically and economically Africa is often seen as being of only trivial importance to many Western states. He also adds that in regard to international terrorism, Africa has not yet been perceived as a central object

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[http://wwwc.house.gov/international\\_relations/107/akwe0918.htm](http://wwwc.house.gov/international_relations/107/akwe0918.htm) (accessed October 23, 2004). CCIC, *The New Partnership for Africa's Development (NEPAD): A Commentary*, 4-5. FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 15-18. Human Rights Watch (HRW), "Human Rights in Security and Development: Recommendations for the G8 Summit, June 2002, including the G8's Action Plan for Africa," Background information (New York: Human Rights Watch, 5 June 2002), 5. Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 984. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 1-2.

of strategic interest.<sup>44</sup> To draw the attention directly to NEPAD, as regards the G8's *Africa Action Plan* to support NEPAD, a lack of concern is also evident. Referring to the G8's progress report presented to the 2003 G8 summit in Evian, Bronwen Manby declares that the report reads as if much has been accomplished, but in reality rhetoric remains paramount.<sup>45</sup> She explains: "Action on debt relief, on ending agricultural or export subsidies, and on providing cheap drugs for treatment of HIV, has largely been blocked – with the European Union and the United States engaging in mutual mud-slinging to shift the blame."<sup>46</sup> However, Cord Jacobeit points out that the West cannot afford a neighbouring continent, which is plagued by failing states, growing fundamentalism, a base for terrorists, illnesses and misery. Yet, globalisation also means that such developments cannot be contained.<sup>47</sup> Therefore, he concludes: "Es gibt nicht nur eine moralisch-ethische Verpflichtung, Afrika in seiner ganzen faszinierenden (und auch abstoßenden) Vielfalt mit vergrößerten Anstrengungen beizustehen. Eine afrikanische Apokalypse kann sich der Westen aus wohlverstandenen Eigeninteresse nicht leisten."<sup>48</sup> (There is not just a moral-ethical responsibility to stand by this fascinating [and also repulsive] Africa with an increased effort. In terms of well-understood self-interest, the West cannot afford an African apocalypse) (translation own). To follow Jacobeit's call to stand by Africa with an increased effort is a further intention of this thesis. It is hoped that this work will contribute to a better understanding of the urgency for implementing an RBA to NEPAD. Only by doing so can the goal of African sustainable development be moved forward. This, in turn, will lead to an advanced state of peace and security in the region and beyond.

### **1.3 Theoretical Framework: The Regime of Liberal International Sovereignty**

The theoretical framework employed derives mainly from David Held's 2002 article "The Law of Peoples, The Law of States: Three Models of Sovereignty," and the extended version of this article in his 2004 book *Global Covenant: The Social Democratic Alternative to the Washington Consensus*.<sup>49</sup> The three models of sovereignty addressed in these works are classic sovereignty, liberal international sovereignty and

<sup>44</sup> See Stefan Mair, "Auflösung des Staatlichen Gewaltmonopols und Staatszerfall," in *Afrika – Ein Verlorener Kontinent?* (see bibliography), 100-101.

<sup>45</sup> See Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 996.

<sup>46</sup> Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 996-997.

<sup>47</sup> See Cord Jacobeit, "Erscheinungsformen und Ursachen der ökonomischen Misere," in *Afrika – Ein Verlorener Kontinent?* (see bibliography), 96.

<sup>48</sup> Jacobeit, "Erscheinungsformen und Ursachen der ökonomischen Misere," 96.

<sup>49</sup> See David Held, "Law of States, Law of Peoples: Three Models of Sovereignty," *Legal Theory* 8 (2002): 1-44. David Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus* (Cambridge: Polity Press, 2004).

cosmopolitan sovereignty. Classic sovereignty refers to the primacy of the state in the political and economic relations within and between countries and constitutes, thus, the law of states. Liberal international sovereignty represents a mixture of the law of states and the law of peoples. The political power of the state is delimited by the formation of various international regimes such as the international human rights regime and the establishment of international courts and other global institutions. These give increasing power to the peoples by acknowledging their rights and, in turn, the state as a duty-holder. The model of cosmopolitan sovereignty, finally, takes this thought one step further, claiming that the possibility arises for states to 'wither away' as the main actors in international relations. Instead, they manifest themselves as just one powerful actor within an overarching cosmopolitan framework.<sup>50</sup> As Held explains, in this model the laws and rules of the nation-state are not paramount anymore but become only one focus for legal progress, political deliberation and mobilisation.<sup>51</sup> It is, therefore, the law of peoples.<sup>52</sup>

The present world order has the regime of liberal international sovereignty at its core. Held argues that one of the major deficiencies of the current order lies in the fact that massive inequalities of power and economic resources continue to increase. He particularly refers to the instances of poverty and marginalisation as examples.<sup>53</sup> Held rightfully asks: "Does this growing gulf in the life circumstances and life chances of the world's population highlight intrinsic limits to the liberal international order?"<sup>54</sup> The scholar answers the question himself. Although he admits that such trends as the particularisation of nation-states contribute to this disparity, Held believes that the principal source of this increasing inequality can be found elsewhere. He claims that the regime of liberal international sovereignty does not have an enormous impact on the regulation of economic power and market mechanisms. Instead, it is restricted to the curtailment of the abuse of political power in international relations. Consequently, there are no systematic means to deal with sources of economic power such as, for example, the international financial institutions (IFIs).<sup>55</sup> "Hence," Held concludes, "it is hardly a sur-

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<sup>50</sup> See Held, "Law of States, Law of Peoples: Three Models of Sovereignty," 1.

<sup>51</sup> See Held, "Law of States, Law of Peoples: Three Models of Sovereignty," 33.

<sup>52</sup> See Held, "Law of States, Law of Peoples: Three Models of Sovereignty," 1.

<sup>53</sup> See Held, "Law of States, Law of Peoples: Three Models of Sovereignty," 22. Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, 142.

<sup>54</sup> Held, "Law of States, Law of Peoples: Three Models of Sovereignty," 22. Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, 142.

<sup>55</sup> See Held, "Law of States, Law of Peoples: Three Models of Sovereignty," 22. Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, 143.

prise that liberal democratic processes, human rights and flourishing economic inequalities exist side by side.”<sup>56</sup>

The theoretical notions elucidated above are applied to this thesis. The question is explored whether the regime of liberal international sovereignty, in addition to the economic obstacle of the World Bank’s SAPs, presents a major underlying impediment to implementing an RBA to NEPAD.

#### **1.4 Methodology**

To effectively comment on the methodology employed in this thesis, the author’s ontological and epistemological position and the related theoretical perspective<sup>57</sup> need to be introduced. They are the key elements on which the methodology is based. Therefore, such an outline gives the reader an idea of the writer’s justification of “choice and particular use of methodology and methods.”<sup>58</sup> The ontological position taken in this project is an anti-foundationalist one. This indicates that the author is of the opinion that there does not exist a ‘real world’ which is independent of our knowledge of it. The epistemological position adopted in this thesis is the one of ‘constructionism.’<sup>59</sup> The term ‘constructionism’ generally refers to the belief that all knowledge, or meaningful reality, is constructed through the interaction between human beings and their world. As such, meaning in objects is never discovered but it only comes into being when consciousness interacts with it.<sup>60</sup>

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<sup>56</sup> Held, “Law of States, Law of Peoples: Three Models of Sovereignty,” 23. Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, 143.

<sup>57</sup> Textbooks on qualitative and quantitative research use different terminology. Whereas some differentiate between the expressions ‘methodology’ and ‘method’, others do not. In this thesis, the author makes use only of the term ‘methodology’ when referring to this issue. The expression ‘ontology’ addresses the question of whether “there is a ‘real’ world ‘out there’ that is independent of our knowledge of it.” If one answers this question in the affirmative that person takes a foundationalist ontological position. Equally so, if a person does not believe that there is a ‘real’ world, their ontological position can be labelled anti-foundationalist. David Marsh and Paul Furlong, “A Skin not a Sweater: Ontology and Epistemology in Political Science,” in *Theory and Methods in Political Science*, eds. David Marsh and Gerry Stoker, 17-41 (New York: Palgrave MacMillan, 2002), 18. The term ‘epistemology’ is here defined as “the theory of knowledge embedded in the theoretical perspective and thereby in the methodology.” Michael Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process* (London: SAGE Publications, 1998), 3. The term ‘theoretical perspective’ can be understood as “the philosophical stance informing the methodology and thus providing a context for the process and grounding its logic and criteria.” Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 3.

<sup>58</sup> Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 2.

<sup>59</sup> As Crotty explains, the term ‘constructionism’ generally refers to the belief that “all knowledge, and therefore all meaningful reality as such, is contingent upon human practices, being constructed in and out of interaction between human beings and their world, and developed and transmitted within an essentially social context.” Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 42.

<sup>60</sup> See Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 42-43.

Michael Crotty explains that the epistemology of constructionism is the foundation of most theoretical perspectives, mainly excluding positivist and post-positivist paradigms.<sup>61</sup> Consequently, critical theory, the theoretical perspective embraced in this dissertation, is also a form of constructionism. Critical theory has its origin in the era of the Enlightenment. Kant, Hegel and Marx are the first scholars brought into a relationship with this philosophy.<sup>62</sup> In the twentieth century, critical theory became most closely tied to the so-called Frankfurt School, which had its roots in the Institute for Social Research set up in 1924 by Felix Weil.<sup>63</sup> In particular, the works of Max Horkheimer, Theodor Adorno, Walter Benjamin, Herbert Marcuse, Erich Fromm, Leo Lowenthal and, more recently, of Jürgen Habermas were responsible for the further development of this perspective.<sup>64</sup> Today, critical theory is best defined as “the emblem of a philosophy which questions the prevailing order of social and political modernity through a method of immanent critique.”<sup>65</sup> In more detail, this means that critical theory undertakes research that challenges; its research does not accept the *status quo* but it aims to bring about change. Also, as the quotation indicates, this perspective criticises the social order with its institutions and structures. Most importantly, it focuses on power relationships within society with the purpose of depicting the forces of hegemony and injustice. Commenting on the objectives of critical theory, Crotty elucidates: “The goals of critical inquiry [critical theory] – the just society, freedom, equity – may appear utopian. Nevertheless, while critical inquirers admit the impossibility of effecting consummate social justice, they believe their struggle to be worthwhile. It can lead at least to a more just and freer society than we have at the moment.”<sup>66</sup>

This perspective is often criticised by positivists for its normative approach to the subject in question. Proponents of positivism argue that critical theory is value- and ethics-laden and that it is, thus, emotive. As Steve Buckler points out referring to the beliefs of

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<sup>61</sup> See Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 4. Contrary to constructionism, proponents of positivism believe that “objects in the world have meaning prior to, and independently of, any consciousness of them.” Consequently, the only scientific knowledge is objective knowledge. Positivists believe that truth or facts can only be gathered through observation, experience and comparison. Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 27.

<sup>62</sup> See Richard Devetak, “Critical Theory,” in *Theories of International Relations*, by Scott Burchill and Andrew Linklater, 145-178 (New York: St. Martin’s Press, 1996), 145-146.

<sup>63</sup> See Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 125.

<sup>64</sup> See Devetak, “Critical Theory,” 146.

<sup>65</sup> Devetak, “Critical Theory,” 146.

<sup>66</sup> Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 157.

positivist David Hume: “Since all true knowledge comes from empirical experience, statements of value could not be said to be in any sense expressions of *knowledge* and were only matters of convention.”<sup>67</sup> Similarly, the positivists A. J. Ayer and T.D. Weldon perceive value-statements as non-objective and, thus, as inappropriate for rational inquiry or argument.<sup>68</sup> However, while these criticisms are acknowledged, it must be kept in mind that critical theory is a mainstream theoretical perspective embraced by a great number of scholars.<sup>69</sup> Crotty goes so far as to maintain that the epistemology of constructionism, on which critical theory is based, has replaced positivism as the dominant paradigm in some areas.<sup>70</sup> In terms of critical theory itself, it has been argued that in contrast to positivism it is a theory which is strongly linked to practice when aiming at justice, freedom and equity in society. It can, therefore, be labelled a genuine force. Positivism, on the other hand, lacks both: the link to practice and being a genuine force.<sup>71</sup> Critical theorists define positivism as a “science that reduces valid knowledge to what can be verified statistically, thus robbing experience of its vitality.”<sup>72</sup>

It is believed that the theoretical perspective of critical theory is the best perspective to address the topic in question. This thesis assesses the feasibility for implementing an RBA to NEPAD. The research conducted and the results obtained are closely linked to the interpretations of human rights and development scholars as well as to the analyses of the author. As such, the work is value- and ethics-laden and, therefore, normative – a key characteristic of the critical theory approach. Moreover, this project, in line with the objectives of critical theory, challenges the *status quo* and it seeks to bring about change. Most significantly, this thesis challenges the World Bank’s current employment of human rights-devoid SAPs in developing countries and, in particular, in Africa. It seeks to cause change by recommending the implementation of an RBA to NEPAD. Also, as in the critical theory approach, the dissertation focuses on power relationships within society, criticising the current social order with its institutions and structures. Again, reference can be made to the World Bank’s SAPs in African countries, which demonstrate a highly uneven power relationship between the two. The current

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<sup>67</sup> Steve Buckler, “Normative Theory,” in *Theory and Methods in Political Science*, eds. David Marsh and Gerry Stoker, 172-194 (New York: Palgrave MacMillan, 2002), 173.

<sup>68</sup> See Buckler, “Normative Theory,” 175.

<sup>69</sup> See Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 114.

<sup>70</sup> See Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 42.

<sup>71</sup> See Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 130.

<sup>72</sup> Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process*, 131.

social order is criticised, focussing particularly on the financial institution of the World Bank and on the structures in which it is embedded.

It follows from the choice of the theoretical perspective of critical theory that the methodology adopted is qualitative in character. The goal is not to collect sets of quantitative data and to then formulate statistical verifications that are disconnected from reality – the typical positivist approach. On the contrary, the research conducted should lead to valid knowledge, it should be linked to practice and, finally, it should be a genuine force. As a result, the research conducted is qualitative in character. It involves the methodologies of case study, document analysis and interviews. All three fulfil the characteristics of valid knowledge, practice and genuine force. NEPAD is the case study of this thesis. In terms of document analysis, different types of primary sources are investigated to collect the necessary data. Among the primary sources reviewed are, first and foremost, NEPAD documents whose contents lay the foundation for the proposed work. To receive a range of perspectives on the topic, the examination of these policy papers is supplemented by an investigation of reports and statements by the United Nations (e.g. UNDP, Office of the UNHCHR, the Independent Expert on the Right to Development etc.); NGOs (e.g. AI, HRW, Oxfam etc.); IGOs (e.g. the World Bank etc.); and governments that have worked on the issue of the RBA to development (e.g. Canada etc.). In addition to analysing primary documents, reports and statements, an interview is conducted with a professional in the fields of human rights and development.<sup>73</sup> This semi-structured, open-ended interview is undertaken by email. Apart from accompanying the analysis of the above-mentioned primary sources, the interview may supply additional and unique insights into the issue studied. For example, interviews provide the possibility of asking professionals in the field the research question directly, thereby receiving answers that might differ from the written material examined. Moreover, professionals' often first-hand experience can add a practical perspective to the matter explored.

The examination of the primary sources listed is finally complemented by an investigation of secondary sources, such as books and articles. These are mainly written by experts in the field, including academics, lawyers, journalists, development practitioners and human rights activists. The intention is that the research conducted is ap-

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<sup>73</sup> Out of eight professionals contacted, only one responded to my interview request. Magnus Killander was interviewed by email on May 8, 2006.

proached from all perspectives, thus attempting to minimise the inevitable problems associated with a selective and incomplete interpretation of the subject.

### ***1.5 Scope and Limits***

The introduction is followed by four additional chapters. Chapter 2 contains two sections, which review the most important literature on the two main issues laying the foundation of this thesis. The first segment deals with the RBA to development, presents its evolution, outlines its main components and establishes the authors' different perspectives regarding this approach. The second part introduces NEPAD by providing a general overview of the initial policy document. Moreover, this section highlights the general criticisms in regard to NEPAD and, specifically, its lack of an RBA.

The third chapter identifies the World Bank's SAPs as the principal economic obstacle to implementing the RBA to NEPAD. This thesis is limited to exploring this impediment only, because the Bank's SAPs are the main economic hindrance investigated in the literature. Therefore, the necessary resources are provided for undertaking this dissertation. Also, to include the identification of further obstacles such as political and cultural or even technical impediments would exceed the scope of a Masters thesis. Finally, concentrating on this economic hindrance is advantageous for the application of the theoretical framework of the regime of liberal international sovereignty.

Chapter 4 will assess the feasibility of implementing an RBA to NEPAD on two separate levels. Whereas the first assessment focuses on the actions required by the World Bank, the second evaluation applies Held's theoretical framework to the findings of chapter 3. In doing so, both assessments contribute to investigating and commenting on the likelihood of applying an RBA to NEPAD.

The final chapter consists of a summary of the research undertaken by highlighting the findings of the previous chapters. Also, the utilisation of the methodology and the theoretical framework employed is critiqued. Moreover, the conclusion serves as the place to present an overview of possible future research projects, which have emerged from the thesis. Finally, it offers an outlook on what is likely to happen in this field of study in the near future.

## Chapter 2

### 2. Literature Review

The literature reviewed focuses on two main aspects: the RBA to development and the African development programme, NEPAD. Where there exist weaknesses in the literature or gaps or disagreement, this is made apparent and explained. However, it needs to be kept in mind that both topics are fairly new on the international human rights and development agenda and, thus, are still partially unexplored. Consequently, this means that many long-lasting problems, debates or controversies have not yet had the time to fully develop and strengthen and so disadvantages and disagreements are even now rather low in number.

#### 2.1 Evolution of the RBA to Development

The RBA to development is the result of an increasing convergence of the two disciplines of human rights and development over the last decades. As Amparo Tomás points out, the objectives of development, peace and human rights all arrive on the scene with the coming into force of the United Nations Charter in October 1945. The creation of the Universal Declaration of Human Rights in 1948 also includes development and human rights as interrelated objectives, the document consisting of CP rights as well as ESC rights.<sup>74</sup> However, the emergence of the Cold War and the ideological division that followed brought an end to a further convergence until the beginning of its dissolution in the late 1980s. In fact, this period was characterised by the North and the South having numerous discussions on the relationship between both disciplines.<sup>75</sup> Also, in 1966 two separate covenants appeared, splitting the issue of human rights into the ICCPR and the ICESCR.

With the acceptance of the Declaration on the Right to Development by the General Assembly in 1986, the objectives of human rights and development were once again on the same agenda and an increasing convergence of both can be observed from then onwards.<sup>76</sup> Yet, one should note, as Brigitte Hamm states, that as well as the 146 'yes' votes in the General Assembly, there were eight abstentions of primarily industrialised Western countries and one negative vote of the United States, thus indicating

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<sup>74</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 6.

<sup>75</sup> See Brigitte I. Hamm, "A Human Rights Approach to Development," *Human Rights Quarterly* 23 (2001): 1008. Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 6.

<sup>76</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 6.

that debate still existed on this matter.<sup>77</sup> The UN World Conference on Human Rights in Vienna in 1993 can be seen as a further step towards convergence. Sengupta speaks of a new consensus emerging at that time with even the United States supporting the matter.<sup>78</sup> Indeed, the Vienna Declaration reaffirmed “the right to development, as established in the Declaration, as a universal and inalienable right and an integral part of fundamental human rights.”<sup>79</sup> Despite ongoing debates between the North and the South on issues such as international aid, debt and trade relations, since 1993 there have been numerous positive moves towards the integration of human rights into the development process and towards an RBA: in 1995, the World Summit for Social Development; in 1998, the UNDP Policy on Integrating Human Rights with Sustainable Human Development; in 2000, the United Nations Millennium Declaration and the 2000 UNDP Human Development Report *Human Rights and Human Development*.<sup>80</sup>

In accordance with the statements made above, Tomás, William O'Neill and Mahesh Patel all point out that the RBA to development is not an entirely new approach but that it incorporates the strengths of traditional programming and, therefore, builds on previous development approaches.<sup>81</sup> As Patel puts it: the RBA “does not require the replacement of traditional planning activities with something completely different. Rather it serves as a means of adding value to those activities through changes in the ways in which they are implemented and the issues they cover.”<sup>82</sup>

## **2.2 The Main Components of the RBA to Development**

The webpage of the UNHCHR affirms that there does not exist a particular, universally agreed upon RBA to development, although an agreement on the basic constituent elements may be emerging.<sup>83</sup> It can be argued that this constitutes one of the major

<sup>77</sup> See Hamm, “A Human Rights Approach to Development,” 1009.

<sup>78</sup> See Allan Rosas, “The Right to Development,” in *Economic, Social and Cultural Rights: A Textbook*, edited by Asbjorn Eide *et al.*, 119-130. 2nd ed. (Dordrecht: Martinus Nijhoff Publishers, 2001), 125. Sengupta, “On the Theory and Practice of the Right to Development,” 841.

<sup>79</sup> UN General Assembly, Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights (Vienna, 25 June 1993), A/CONF.157/23. part 1, para. 10.

<sup>80</sup> See Hamm, “A Human Rights Approach to Development,” 1008. Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 6.

<sup>81</sup> William G. O'Neill, *An Introduction to the Concept of Rights-Based Approach to Development: A Paper for InterAction* (Washington D.C.: InterAction, December 2003), 1. Mahesh Patel, “Human Rights as an Emerging Development Paradigm and Some Implications for Programme Planning, Monitoring and Evaluation,” First draft (United Nations Children's Fund [UNICEF], 2001), 40. Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 1.

<sup>82</sup> Patel, “Human Rights as an Emerging Development Paradigm and Some Implications for Programme Planning, Monitoring and Evaluation,” 40.

<sup>83</sup> See UNHCHR, “Rights-Based Approaches,” <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

weaknesses of the literature studied since it is rather difficult to pinpoint the main components of the RBA. In terms of the human rights principles, while issues such as participation, accountability and non-discrimination are listed by all authors as highly important attributes of the RBA, others such as empowerment, equity and equality are named more irregularly. Therefore, in an attempt to present accurate results, the following selection mirrors a summary of the key choices made by the leading professionals in the field. In general, the elements that constitute the conceptual framework of the RBA are international human rights standards and principles. In addition, several aspects are mentioned as being important issues regarding the RBA, for example: the move away from charity towards obligation; the process of development being a human right; and the issue of dignity.

Before further engaging in this exercise, it is of significance to recall the general idea of the RBA to development as explained in the introduction. Manfred Nowak in his essay, "A Human Rights Approach to Poverty", gives one of the most recent definitions on this subject. He elucidates that the RBA is based "on the explicit recognition of a legally binding normative framework with rights, entitlements, duties, responsibilities and accountability."<sup>84</sup> Consequently, as Tomás indicates, the RBA to development utilises the international human rights framework with its standards and principles to analyse development processes and to design and implement appropriate strategies.<sup>85</sup> While the above illustrates the theoretical implications of the RBA, it is also important to note its practical dimensions. André Frankovits explains this issue well. He states: "The approach is a *tool box* available to rights claimants, human rights advocates and development actors that provides the means to better analyse poverty, to hold duty-bearers accountable for development and to empower people to claim their rights."<sup>86</sup>

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<sup>84</sup> Manfred Nowak, "A Human Rights Approach to Poverty," In *Human Rights in Development Yearbook 2002. Empowerment, Participation, Accountability and Non-Discrimination: Operationalising a Human Rights-Based Approach to Development*, eds. Martin Scheinin and Markku Suksi, 15-35 (Leiden: Martinus Nijhoff Publishers, 2005), 27.

<sup>85</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 11.

<sup>86</sup> André Frankovits, "Introduction," In *Human Rights in Development Yearbook 2002. Empowerment, Participation, Accountability and Non-Discrimination: Operationalising a Human Rights-Based Approach to Development*, eds. Martin Scheinin and Markku Suksi, 1-14 (Leiden: Martinus Nijhoff Publishers, 2005), 5.

### 2.2.1 International Human Rights Standards

International human rights standards are usually found in international treaties and declarations but can also be contained in documents such as 'guidelines' or 'principles.'<sup>87</sup> Every right mentioned in a treaty or declaration covers a number of standards, which represent this right in all its diversity. The 'right to life,' for example, includes such standards as extrajudicial executions, genocide and killing by civilians in armed conflict.<sup>88</sup> As a basis of the RBA, these international human rights standards "help to define the type of *results* pursued in the development process."<sup>89</sup> Therefore, the standards are "an *objective* 'roadmap' to human development goals that prevent 'capture' of the development agenda, and set minimum guarantees for poor and disadvantaged groups."<sup>90</sup>

### 2.2.2 International Human Rights Principles

Whereas the international human rights standards are directly linked to the results pursued in development programming, international human rights principles form the process of development, which in the RBA is seen as being as important as the outcome of development.<sup>91</sup> Different authors refer to different principles, however, some principles reoccur continually. Among these are the following, to be further explained in the subsequent paragraphs: participation; accountability; non-discrimination; empowerment; and equity.

All authors writing about the RBA agree on the importance of the principle of participation as a most valuable aspect of the RBA to development.<sup>92</sup> The idea of the principle of participation is for claim-holders to participate in the assessment, decision-making and implementation of development strategies in an active, free and meaningful manner.<sup>93</sup> However, despite the unambiguous definition of this principle, a number of scholars including Hamm, Sengupta and Tomás, point out that too often participation

<sup>87</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 18. UNHCHR, "Rights-Based Approaches," <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

<sup>88</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 18.

<sup>89</sup> Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 11.

<sup>90</sup> Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 14.

<sup>91</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 11-12. Uvin, *Human Rights and Development*, 137.

<sup>92</sup> See André Frankovits, "Rules to Live by: The Human Rights Approach to Development," *The Fletcher Journal of Development Studies* XVII (2002): 14. Hamm, "A Human Rights Approach to Development," 1018-1019. Sano, "Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development," 751. UN Economic and Social Council, Arjun Sengupta, *Fourth Report of the Independent Expert on the Right to Development* (Geneva, 20 December 2001), E/CN.4/2002/WG.18/2, 11. UNHCHR, "Rights-Based Approaches," <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005). Uvin, *Human Rights and Development*, 138.

<sup>93</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 12.

has been understood by duty-bearers as mere consultation or acceptance of already finalised development projects.<sup>94</sup> As Hamm notes: “Donors, development organizations, IFIs, and sometimes also NGOs have a rather formal understanding of participation, which means informing the people concerned of more or less fully planned and designed projects.”<sup>95</sup> Yet, the RBA asks for a form of participation which includes control over the planning, the process, the outcome and the evaluation of development.<sup>96</sup> To understand this principle as anything less, Sengupta states, “would frustrate the intent of the human rights approach to participation.”<sup>97</sup>

Another significant aspect inherent in the RBA to development is the principle of accountability, again mentioned by a variety of sources.<sup>98</sup> For each human right there exists a corresponding duty. Thus generally, accountability means that there are claim-holders who have specific entitlements and, at the same time, duty-bearers who have specific obligations.<sup>99</sup> To increase mechanisms of accountability by, for example, developing adequate laws, policies, institutions, administrative procedures and practices to better monitor progress is the goal of this principle within the RBA.<sup>100</sup> In addition, Uvin stresses: “An RBA will focus more on social structures, loci of power, rule of law, empowerment, and structural change in favor of the poorest and most deprived, as well as mechanisms for reprieve in case of violation. It will work on information and redress.”<sup>101</sup> As such, in the context of development assistance, the principle of accountability characterises a move away from charity towards obligation. This obligation applies equally to recipient governments and to international donors. However, Frankovits reveals that the legal status of the principle of accountability is still being developed

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<sup>94</sup> See Frankovits 2005, “Introduction,” 12. Hamm, “A Human Rights Approach to Development,” 1018-1019. Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, 11. Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 12.

<sup>95</sup> Hamm, “A Human Rights Approach to Development,” 1018-1019.

<sup>96</sup> See Hamm, “A Human Rights Approach to Development,” 1019.

<sup>97</sup> Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, 11.

<sup>98</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 15. Sano, “Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development,” 752. Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, 11. Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 13. UNHCHR, “Rights-Based Approaches,” <http://www.unhcr.ch/development/right.html> (accessed February 1, 2005). Uvin, *Human Rights and Development*, 131.

<sup>99</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 13. UNHCHR, “Rights-Based Approaches,” <http://www.unhcr.ch/development/right.html> (accessed February 1, 2005).

<sup>100</sup> See UNHCHR, “Rights-Based Approaches,” <http://www.unhcr.ch/development/right.html> (accessed February 1, 2005).

<sup>101</sup> Uvin, *Human Rights and Development*, 131.

and is therefore in its formative stages. There do not yet exist any penalising measures for those donors denying this responsibility.<sup>102</sup>

A third issue that the RBA to development adheres to is the principle of non-discrimination. The design and implementation of all development policies and practices has to be pursued without any discrimination on the grounds of race, colour, sex, language, political or other opinion, religion, national or social origin, poverty, birth or other status.<sup>103</sup> As a consequence, the principle of non-discrimination focuses particularly on disadvantaged groups and individuals in society, that is, those who are more discriminated against. This includes women, the elderly and people living with the human immune deficiency virus/acquired immune deficiency syndrome (HIV/AIDS).<sup>104</sup>

Empowerment can be defined as the process by which the ability of people to claim and utilise their rights effectively grows.<sup>105</sup> Therefore, people are empowered once it is in their own control and hence it becomes their right, due to attained capacities and capabilities, to positively influence their own communities, lives and destinies.<sup>106</sup> For example, the ability to participate in the development process in an active, free and meaningful manner would lead to a growing capacity to claim and exercise rights, thereby contributing to the empowerment of people. In that sense, the principle of participation is linked to the principle of empowerment.<sup>107</sup>

Finally, the aspect of equity has also been frequently named as a principle that the RBA to development must adhere to. The RBA has been defined in the Declaration on the Right to Development and other following international resolutions as a process that is participatory, non-discriminatory, accountable and transparent, with equity in decision-making and sharing of the outcomes of the process. Commenting on the particular issue of equity, Sengupta notes: “Equity – which is essential to any notion of human rights derived from the idea of equality of all human beings in rights, dignity and

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<sup>102</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 15.

<sup>103</sup> See Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, 10.

<sup>104</sup> See Hamm, “A Human Rights Approach to Development,” 1018. Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 13.

<sup>105</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 14.

<sup>106</sup> See UNHCHR, “Rights-Based Approaches,” <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

<sup>107</sup> See Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 14.

opportunity, and is associated with fairness or the principles of a just society – is basic to that process.”<sup>108</sup>

### 2.2.3 *The Move Away From Charity Towards Obligation*

Not only does the RBA to development incorporate international human rights standards and principles, there also exist a number of issues mentioned repeatedly by the authors writing on the RBA, which deserve further attention. One such aspect is that, in the context of development assistance, the principle of accountability and therefore the RBA characterises a move away from charity towards obligation.<sup>109</sup> This means, for example, that whereas in traditional development programmes necessities like food, education and health were perceived as matters of charity, they are now seen as a person’s right.<sup>110</sup> This is so because the RBA stems from the assumption that duty-bearers such as recipient governments, donor governments and international organisations have the responsibility, under international law, to respect, protect and fulfil human rights. This obligation is set out, for instance, in the UN Charter as well as in international human rights treaties, such as the ICCPR and the ICESCR.<sup>111</sup> However, both Frankovits and Hamm point out that the enforcement of these duties is rather weak in international law, no penalising measures existing for those donors denying this responsibility.<sup>112</sup> Nevertheless, Frankovits argues that international donors dedicated to the realisation of human rights as established under international law “should be comfortable with accepting this accountability.”<sup>113</sup>

### 2.2.4 *The Process of Development as a Human Right*

A number of authors repeatedly mention the important fact that in terms of the RBA to development, it is not only the outcome of development which is a human right; also, it is the process of development, of how to get to the outcome, which represents a human right. Therefore, human rights must be protected, respected and fulfilled through-

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<sup>108</sup> Sengupta, “On the Theory and Practice of the Right to Development,” 846.

<sup>109</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 14-15. Hamm, “A Human Rights Approach to Development,” 1014. Sano, “Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development,” 745. Uvin, *Human Rights and Development*, 131.

<sup>110</sup> See Hamm, “A Human Rights Approach to Development,” 1014.

<sup>111</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 14. Hamm, “A Human Rights Approach to Development,” 1014.

<sup>112</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 15. Hamm, “A Human Rights Approach to Development,” 1016.

<sup>113</sup> Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 15.

out the entire work towards the development aims.<sup>114</sup> However, this has not always been the case. As the UNDP *Human Development Report 2000* states in regard to past human development practice:

Development thinking has traditionally focused on the outcomes of various kinds of social arrangements. And although human development thinking has always insisted on the importance of the process of development, many of the tools developed by the human development approach measure the outcomes of social arrangements in a way that is not sensitive to how these outcomes were brought about.<sup>115</sup>

As revealed above, today a different belief exists among many human rights and development professionals. Some think that the process might indeed be even more important than the outcome of development work. Uvin gives a number of examples for sharing this opinion. First, he argues that the amount of money spent on development assistance globally is not nearly enough to reach contented outcomes for the world's poor; only a few will profit from the small amount of financial aid distributed. Consequently, Uvin claims, people affected by development may very well feel more of an influence if, through the process of development, institutions become established, strengthened, weakened or destroyed. Moreover, he maintains, development assistance has often led to negative consequences, such as corruption, inequality and social exclusion, sometimes outweighing the achievements in terms of technical goals.<sup>116</sup> As a result, Uvin concludes: "Good processes are considerably more important for long-term development than good products."<sup>117</sup>

### 2.2.5 *The Issue of Dignity*

A final aspect deserving further attention is the issue of dignity referred to in connection with the RBA to development. Obviously, there must be some sort of relationship between the RBA and the aspect of dignity since human rights have as one of their objectives to provide all people with a dignified life. Yet, it seems important to point this out in more detail to once again demonstrate the difference between traditional approaches and the RBA to development. Whereas past economic development approaches did

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<sup>114</sup> See UN Economic and Social Council, Arjun Sengupta, *Study on the Current State of Progress in the Implementation of the Right to Development* (Geneva, 27 July 1999), E/CN.4/1999/WG.18/2, paras. 36-56. UNDP, *Human Development Report 2000: Human Rights and Human Development*, 22. Uvin, *Human Rights and Development*, 137.

<sup>115</sup> UNDP, *Human Development Report 2000: Human Rights and Human Development*, 22.

<sup>116</sup> See Uvin, *Human Rights and Development*, 137-138.

<sup>117</sup> Uvin, *Human Rights and Development*, 138.

not concern themselves with dignity, the RBA has dignity at its core.<sup>118</sup> Not only does the approach assume that people have dignity, but also one of the bottom-line notions of the RBA is that it focuses on supporting people to lead a dignified life.<sup>119</sup>

### **2.3 Why Have an RBA to Development?**

One of the core assumptions of this thesis is that only the RBA to development, with its high moral standards but also its adherence to international human rights standards and principles, offers Africa the chance to pursue sustainable human, social and economic development within the NEPAD framework. Yet, the debate on this subject would not be complete if the critical voices of this approach are left out. Consequently, before further engaging in a discussion on the advantages of an RBA to development, the subsequent paragraphs will highlight possible problems or disadvantages related to this approach, followed by answers by the proponents of the RBA.

#### *2.3.1 Critical Voices Have Their Say*

In fact, it is the human rights and development scholars themselves who point out that the RBA to development is not the answer to all the injustices and difficulties apparent in development work.<sup>120</sup> Similarly, Hamm declares, that a rights-based approach does not automatically promise more success in the development field.<sup>121</sup> Finally, as Uvin so vividly states: “The RBA is not the solution to all problems, a magical key that will finally unlock the gates of development nirvana.”<sup>122</sup> But what the RBA does provide, Uvin affirms, “is a lens, a way of looking at the world, of defining struggles and partaking in them.”<sup>123</sup> For example, Hamm maintains that one significant change the RBA brings with it is its focus on accountability, a new lens through which charity now becomes a legal obligation to be fulfilled by the various duty-holders.<sup>124</sup> Referring to the issue of dignity, Sano, on a different note, explains that human rights have the ability to estab-

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<sup>118</sup> See Uvin, *Human Rights and Development*, 138.

<sup>119</sup> See Susan H. Holcombe and Raymond C. Offenheiser, “Challenges and Opportunities in Implementing a Rights-Based Approach to Development: An Oxfam America Perspective,” *Nonprofit and Voluntary Sector Quarterly* 32, no. 2 (2003): 271. Sano, “Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development,” 751.

<sup>120</sup> See Sano, “Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development,” 751.

<sup>121</sup> See Hamm, “A Human Rights Approach to Development,” 1012.

<sup>122</sup> Uvin, *Human Rights and Development*, 166.

<sup>123</sup> Uvin, *Human Rights and Development*, 166.

<sup>124</sup> See Hamm, “A Human Rights Approach to Development,” 1012.

lish an area of security and dignity around the human person from which, then, development can set out.<sup>125</sup>

Apart from these statements of the RBA not being a panacea, another matter still widely debated relates to the nature of second generation rights, including ESC rights. It is argued, especially by some governments, that the nature of these rights differs fundamentally from that of first generation rights, the so-called CP rights. From this follows the argument that the implementation of ESC rights is more difficult than that of CP rights.<sup>126</sup> In more detail, CP rights have often been defined as ‘negative’ rights, whereas ESC rights are generally known as ‘positive’ rights. While negative rights ‘only’ ask the government to abstain from behaving in a certain way (i.e. torture, extra-legal executions etc.), positive rights expect the government to become actively engaged to respect, protect and fulfil a right. Consequently, the latter is seen as more cost intensive for governments and the implementation of these rights as more complicated.<sup>127</sup>

However, Uvin points out that the human rights community has come up with two responses to this partial disregard of ESC rights. To begin with, he states that the goals posed by ESC rights are not as unrealistic and unrealisable as they may appear to be. This is so because the ESC treaties do take into consideration the problems of resource constraints and, thereby, formulate the duties to be as reasonable as possible.<sup>128</sup> The article probably cited most in connection with the above is Article 2(1) of the ICESCR. It 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 realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative means<sup>129</sup> (emphasis added).

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<sup>125</sup> See Sano, “Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development,” 751.

<sup>126</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 11. Uvin, *Human Rights and Development*, 38.

<sup>127</sup> See Uvin, *Human Rights and Development*, 38-39.

<sup>128</sup> See Uvin, *Human Rights and Development*, 39.

<sup>129</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted by the UN General Assembly in 1966, entered into force in 1976, Art. 2(1).

Because of the rather vague character of these terms, efforts have been undertaken since then to define them in a more stringent way. For example, the term 'to the maximum of its available resources' has been redefined in the so-called Limburg Principles<sup>130</sup> as well as by the Committee on Economic, Social and Cultural Rights. Referring to this term, the latter explained in its General Comment 3 of 1990 that:

the Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its *raison d'être*.<sup>131</sup>

As a result, Uvin argues that these treaties and their subsequent interpretations do contain language, which makes the duties outlined therein realistic and hence realisable. Therefore, they constitute a reasonable response to the marginalisation of ESC rights.<sup>132</sup> A second answer to the partial disregard of ESC rights, he explains, is to classify the nature of state obligations without the distinction between negative and positive rights. A new argument put forward by scholars, then, claims that all human rights, CP rights as well as ESC rights, entail the three-fold obligation to respect, to protect and to fulfil. So, both sets of rights are analysed in the same way by applying these three categories. Consequently, CP and ESC rights are not perceived as different in this new approach, thereby abolishing the marginalisation of the latter.<sup>133</sup>

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<sup>130</sup> See Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, E/CN.4/1987/17, Appendix 1. In regard to the term 'to the maximum of its available resources', the Limburg Principles state the following in paragraphs 25 to 28:

25. States parties are obligated, regardless of the level of economic development, to ensure respect for minimum subsistence rights for all.

26. "Its available resources" refers to both the resources within a State and those available from the international community through international co-operation and assistance.

27. In determining whether adequate measures have been taken for the realization of the rights recognized in the Covenant attention shall be paid to equitable and effective use of and access to the available resources.

28. In the use of the available resources due priority shall be given to the realization of rights recognized in the Covenant, mindful of the need to assure to everyone the satisfaction of subsistence requirements as well as the provision of essential services.

<sup>131</sup> UN Committee on Economic, Social and Cultural Rights, *The Nature of States Parties Obligations*, General Comment 3, 1990.

<sup>132</sup> See Uvin, *Human Rights and Development*, 39.

<sup>133</sup> See Uvin, *Human Rights and Development*, 40.

Finally, a third problem that can be identified relates to the issue of intervention. Again, it is an acknowledged human rights and development scholar, namely Uvin, who himself asks the question of whether this newly emerging development mandate, with its extension to human rights via the RBA, constitutes an agenda too interventionist. Indeed, he worries that such is the case. Nevertheless, he does not believe that the response to this problem lies in the return to past development practice or in the ceasing of all development aid.<sup>134</sup> Instead, Uvin argues that “the development community must find ways to counter the necessary expansion of its mandate with an equally necessary reduction in its power, its capacity for conceptualization and initiative, its control over finances, and its lack of accountability.”<sup>135</sup> While he agrees that this goal is very difficult to achieve, he nonetheless provides the reader with three ideas, which can possibly reduce unchecked interventionism and the facades of moral high ground. In brief, they are the following: first, he encourages the use of the radical capacity building approach, which requires that the power of initiative and conceptualisation is transferred to local people, thus diminishing external influence and control. Second, he mentions the further establishment of social movements that utilise human rights as a means to restructure the international political economy so that it becomes human rights-based. As a consequence, it serves the development of not only the rich countries and their populations but also the poor ones. Lastly, Uvin supports the notion that the development enterprise should do far less and instead concentrate more on the adherence to the RBA to development. He argues that development assistance at present is only halfway undertaken and, therefore, failing too often to be truly successful.<sup>136</sup>

### *2.3.2 Advantages of the RBA to Development*

Having identified and assessed the problems an RBA to development might entail, what, then, are the advantages of the RBA? Why should governments, IGOs, NGOs and individuals who work in the development field adopt an RBA instead of the traditional development policies?

A number of scholars have come up with various reasons for employing this approach in development. A few of them were already mentioned as a response to disadvantages in the first paragraph of the last section. However, the best overview of argu-

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<sup>134</sup> See Uvin, *Human Rights and Development*, 195-197.

<sup>135</sup> Uvin, *Human Rights and Development*, 197.

<sup>136</sup> See Uvin, *Human Rights and Development*, 197-199.

ments is provided by the webpage of the UNHCHR. Former High Commissioner, Mary Robinson, in her opening statement to the General Assembly Special Session on Social Development held in Geneva in June 2000, highlighted the following: “rights-based approaches bring the promise of more effective, more sustainable, more rational and more genuine development processes.”<sup>137</sup> The webpage explains in more detail why exactly they do so, often referring to the positive influence of the international human rights principles. First, and already mentioned by Hamm in the preceding section, the RBA offers enhanced accountability due to the identification of duties and duty-bearers, thereby turning the issue of charity in development into one of obligation.<sup>138</sup> Secondly, an RBA gives the local population the power to participate in an active, free and meaningful manner, thus also increasing the levels of empowerment and ownership in development. All three are regarded as important assets in the pursuit of a country’s sustainable development.<sup>139</sup> Moreover, due to the RBA’s foundation in the standards and principles of the international human rights framework, the RBA provides normative clarity and detail for everyone dealing with this matter, listing definitions on the content of development and on all the rights. This, it is further argued, leads to an easier consensus in regard to national development processes because development plans and policies can be based on the instruments of the human rights framework instead of on, for instance, imported foreign development models. Fifthly, the RBA to development, in its ideal form, focuses not just on selected issues as former economic development approaches have often done; instead, it takes into consideration all areas of human development, including education, health, housing, personal security and political participation. This, then, will lead to a more complete and rational development framework. Another very important argument is the fact that an RBA contains integrated safeguards against the harm caused by development projects. Many times, development projects have not adhered to international human rights standards and thus violated those people’s rights. This possibility is diminished with the employment of the RBA.<sup>140</sup> Lastly, the RBA to development offers a more complete and therefore more effective analysis of poverty. This is so because earlier analyses of poverty were mainly eco-

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<sup>137</sup> UNHCHR, “Rights-Based Approaches,” <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

<sup>138</sup> See Hamm, “A Human Rights Approach to Development,” 1012. UNHCHR, “Rights-Based Approaches,” <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

<sup>139</sup> See UNHCHR, “Rights-Based Approaches,” <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005). Tomás, *A Human Rights Approach to Development: Primer for Development Practitioners*, 14.

<sup>140</sup> See UNHCHR, “Rights-Based Approaches,” <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

conomic in character, often based only on income and other economic indicators. The RBA, instead, raises important issues that concern the poor themselves, such as the problems of powerlessness and social exclusion. In turn, such an improved analysis will result in better responses and outcomes.<sup>141</sup> In addition to the reasons stated above, Sengupta explains that the RBA is of benefit due to its increased focus on “those who lag behind others in enjoying their rights.”<sup>142</sup> He adds that consequently, the RBA entails that positive action is taken on their behalf.<sup>143</sup> The great number of benefits the RBA seems to offer leads Frankovits to conclude the following: “From an ethical, moral, and efficiency perspective it is only the human rights approach to development that can prove at once effective and sustainable.”<sup>144</sup> With this comment, he points out the significant fact that the RBA is not only about efficiency. Equally important, it has as its advantage the absolute recognition of moral high ground.

While the above gives the reader a good idea of the theoretical benefits of the RBA to development, one could argue that this does not say anything about whether, and if so, how the RBA is exercised in practice. In fact, a few scholars highlight the lack of documentation on the practical implementation of the RBA to development programmes.<sup>145</sup> However, occasional successful applications of the RBA to a specific development programme have already been observed. To provide the reader with such a practical insight and thus a complete picture of the advantages of the RBA, the subsequent paragraphs will focus on a case study detailing the application of the RBA to high maternal mortality in Peru. This case study is part of a report published by the United Nations Children’s Fund (UNICEF),<sup>146</sup> which supports the adoption of an RBA to development in Peru with its UNICEF Cooperation Programme.

A major issue in the country of Peru is the high maternal mortality rate. In average, 185 maternal deaths are registered for 100,000 live births. However, this number more than triples in the remote Andean highland areas. For many years, agencies thought of this

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<sup>141</sup> See UNHCHR, “Rights-Based Approaches,” <http://www.unhcr.ch/development/right.html> (accessed February 1, 2005). Uvin, *Human Rights and Development*, 130.

<sup>142</sup> Sengupta, *Study on the Current State of Progress in the Implementation of the Right to Development*, 8.

<sup>143</sup> See Sengupta, *Study on the Current State of Progress in the Implementation of the Right to Development*, 8.

<sup>144</sup> Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 16-17.

<sup>145</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 11. Hamm, “A Human Rights Approach to Development,” 1022.

<sup>146</sup> See United Nations Children’s Fund (UNICEF), *A Review of a UNICEF Country Programme Based on Human Rights: The Case of Peru* (UNICEF, 2002).

problem as a pure healthcare issue and therefore saw the solution as increasing the money spent on hospitals. Moreover, they found it efficient to educate the Andean women on the advantages of modern medicine. Despite the actions taken, hardly any improvements were recorded. Consequently, traditional development efforts have basically failed to diminish the high maternal mortality rate.<sup>147</sup>

As a result, UNICEF and its local partners adopted an RBA to this development issue. The approach consisted of several aspects, including the sectors of health, education, indigenous cultural rights and the status of women generally, as well as disparities and exclusion. UNICEF and partners became involved in consultations with Andean women and local health workers and then carried out a causal analysis. This analysis showed that the high maternal mortality rate was due to the conditions of gender inequality together with inappropriate geographic, economic, social and cultural barriers that prevented access to healthcare facilities. In regard to the latter, the reasons stated for not having access to healthcare services were: lack of respect for women's human rights; lack of understanding by health workers and medical doctors concerning the traditions and customs of expectant mothers; and failure to take into account their traditional needs, conditions and birthing practices. The non-use of the health centres resulted in many Andean women giving birth at their homes in very poor sanitary conditions. To address the lack of access to healthcare facilities, UNICEF and its local partners, including local NGOs and health workers, met with the rights-holders, the Andean women, as well as the duty-bearers, the government and local health officials. The idea was to plan a healthcare delivery system that would respect women's rights, including their cultural practices. Such types of active, free and meaningful participation of Andean women in the development process had been almost non-existent up to that day.<sup>148</sup> Referring to the RBA, O'Neill points out that: "This dual approach: strengthening the capacity of the rights holder to understand that health care is a right and then helping them to design a strategy to assert and claim this right while simultaneously working with the duty bearers to improve their capacity to fulfil their obligations is the hallmark of the rights-based approach."<sup>149</sup> The strategy finally agreed upon by all parties was to enhance the demand for maternity care by uniting the Andean women's cultural

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<sup>147</sup> See O'Neill, *An Introduction to the Concept of Rights-Based Approach to Development: A Paper for InterAction*, 5.

<sup>148</sup> See O'Neill, *An Introduction to the Concept of Rights-Based Approach to Development: A Paper for InterAction*, 5. UNICEF, *A Review of a UNICEF Country Programme Based on Human Rights: The Case of Peru*, 34-36.

<sup>149</sup> O'Neill, *An Introduction to the Concept of Rights-Based Approach to Development: A Paper for InterAction*, 5.

practices and the modern medical methods. In the end, this new strategy provided socially and culturally appropriate birthing practices while at the same time informing the women and their community of the necessary safety issues.<sup>150</sup> In terms of the success of this strategy, O'Neill concludes that "this root-cause, participatory, cross-sectoral, dual purpose capacity-building exercise created a revolutionary approach to increasing the use of health care facilities leading to a dramatic reduction in maternal deaths."<sup>151</sup>

Having discussed the evolution and main components of, and scholars' perspectives on, the RBA to development, the chapter will now turn to NEPAD. The African development programme is heavily criticised for its insufficient application of this approach.

## **2.4 NEPAD**

### *2.4.1 Overview of NEPAD and Its Base Document*

NEPAD was the result of the merger of two separate development programmes put forth under the auspices of the Organization of African Unity (OAU). The first programme was the so-called Millennium Africa Recovery Plan (MAP), which was introduced at the Davos Forum in January 2001 by the South African President, Thabo Mbeki. It was supported by the Heads of State of Algeria, Abdelaziz Bouteflika, and Nigeria, Olusegun Obasanjo. The president of Senegal, Abdoulaye Wade, around the same time presented his development programme, the so-called OMEGA initiative. The MAP and the OMEGA were merged at the Extraordinary Summit of the OAU in Sirte in March 2001 to form the New African Initiative (NAI). At the 37<sup>th</sup> ordinary session of the Assembly of Heads of State and Government (AHSG) on 11 July 2001 in Lusaka, the NAI was approved in the form of a declaration. Also, the summit established the Heads of State and Government Implementation Committee (HSGIC), now consisting of 20 African states, whose responsibility is the political leadership of the development programme. The HSGIC held their first meeting on 23 October 2001 in Abuja, Nigeria where the NAI was changed into the *New Partnership for Africa's Development* and the NEPAD base document was finally adopted.<sup>152</sup> The execution phase of NEPAD began in 2003 with the implementation of the short-term plan of action lasting

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<sup>150</sup> See O'Neill, *An Introduction to the Concept of Rights-Based Approach to Development: A Paper for InterAction*, 5. UNICEF, *A Review of a UNICEF Country Programme Based on Human Rights: The Case of Peru*, 34-36.

<sup>151</sup> O'Neill, *An Introduction to the Concept of Rights-Based Approach to Development: A Paper for InterAction*, 5.

<sup>152</sup> See HSGIC, *The New Partnership for Africa's Development (NEPAD)*.

from 2003 until 2006.<sup>153</sup> Theoretically, NEPAD is the principal development programme of the African Union (AU), however, NEPAD is still in the process of being integrated into the existing structures of the AU Commission.<sup>154</sup> In regard to its legal standing, it has to be emphasised that NEPAD is not a legally binding document. Yet, Sidiki Kaba, President of the International Federation for Human Rights (FIDH), points out that “though this Declaration has no binding value from a legal point of view, adopting Declarations instead of Decisions takes on a specific significance and solemnity, which underlines the vivid expectations of the OAU that its member countries will respect the principles enshrined in the Base Document.”<sup>155</sup> In addition, Kaba explains that the Declaration is based on a number of legal obligations that the African states are obliged to adhere to.<sup>156</sup>

The NEPAD base document consists of a total of seven separate sections. The first paragraph of the introductory part of the document announces the aims and the vision of this newly established development programme. It states:

This *New Partnership for Africa's Development* is a pledge by African leaders, based on a common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development, and at the same time to participate actively in the world economy and body politic. The Programme is anchored on the determination of Africans to extricate themselves and the continent from the malaise of underdevelopment and exclusion in a globalising world.<sup>157</sup>

Further paragraphs of this first section highlight the present crisis situation in Africa and reaffirm the need for positive change in this respect.<sup>158</sup> Section 2 of the NEPAD base document emphasises Africa's rich resource base including mineral, ecological and cultural resources. This is followed by a description of the historical impoverishment of the African continent mainly due to the legacy of colonialism. Finally, this section focuses on the need for the successful integration of Africa into the globalisation

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<sup>153</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 23-25.

<sup>154</sup> See UN General Assembly, Kofi Annan, *New Partnership for Africa's Development: Second Consolidated Report on Progress in Implementation and International Support*, 4 August 2004, A/59/206, 10.

<sup>155</sup> FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 30.

<sup>156</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 30.

<sup>157</sup> HSGIC, *The New Partnership for Africa's Development (NEPAD)*, para. 1.

<sup>158</sup> See HSGIC, *The New Partnership for Africa's Development (NEPAD)*, paras. 2-8.

process.<sup>159</sup> The third section centres on the new political will of African leaders after decades of failed development programmes due to external but also internal factors, such as questionable African leadership. In this new development programme, African leaders accept to take joint responsibility for, among others:

- Promoting and protecting democracy and human rights in their respective countries and regions, by developing clear standards of accountability, transparency and participatory governance at the national and sub-national levels;
- Revitalising and extend the provision of education, technical training and health services, with high priority given to tackling HIV/AIDS, malaria and other communicable diseases;
- Promoting the role of women in social and economic development by reinforcing their capacity in the domains of education and training;
- Building the capacity of the states in Africa to set and enforce the legal framework, as well as maintaining law and order.<sup>160</sup>

Section 4 of the NEPAD base document consists of an appeal to the peoples of Africa to take part in countering the further marginalisation of the African continent and in advancing its development by entering into a partnership with the industrialised countries.<sup>161</sup> Therefore, the African leaders ask their peoples to “take up the challenge of mobilising in support of the implementation of this initiative by setting up, at all levels, structures for organisation, mobilisation and action.”<sup>162</sup> The longest part of the document is section 5 on NEPAD’s Programme of Action, which lays out the concrete strategy for achieving sustainable development in Africa in the 21<sup>st</sup> century. As such, the Programme of Action is divided into three steps to achieve the aforementioned goal. These are: the conditions for sustainable development, including NEPAD’s various initiatives (i.e. the Peace and Security Initiative, the Democracy and Political Governance Initiative and the Economic and Corporate Governance Initiative); sectoral priorities, including infrastructure, agriculture, environment and culture; and the mobilisation of resources through schemes such as the Capital Flows Initiative and the Market Access Initiative.<sup>163</sup> Section 6 focuses on the establishment of a new global partnership with developed countries and multilateral organisations. It highlights the mutual benefits that both sides, Africa and its partners, can derive from such a global partnership

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<sup>159</sup> See HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, paras. 9-41.

<sup>160</sup> HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, para. 49.

<sup>161</sup> See HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, para. 55.

<sup>162</sup> HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, para. 56.

<sup>163</sup> See HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, paras. 59-173.

dedicated to upholding existing obligations, which furthers the development of the continent.<sup>164</sup> Finally, section 7 deals with the implementation of NEPAD. To begin with, the initiating presidents list four programmes that need to be fast-tracked due to their outstanding importance in fighting poverty and achieving sustainable development in Africa. These are:

- (a) Communicable diseases – HIV/AIDS, malaria and tuberculosis;
- (b) Information and Communications Technology;
- (c) Debt reduction;
- (d) Market access.<sup>165</sup>

In addition to these programmes, the HSGIC name a number of projects to be implemented to advance integrated regional development. These include projects on agriculture, infrastructure and regional integration. Lastly, a needs assessment will be undertaken to calculate the needs in the five priority sectors in relation to structures and staff.<sup>166</sup>

With regard to positive reactions towards NEPAD, the newly established African development programme is mainly being hailed for three reasons. Most significantly, developed countries as well as academics and NGOs within Africa welcome the fact that NEPAD is an African-led and African-owned initiative, originating out of Africa itself. This is regarded as important since today the issue of ‘ownership’ is perceived as a significant prerequisite to pursue successful human, social and economic development in developing countries.<sup>167</sup> In addition to this, there are two more explanations why the new African development programme received a broad-based welcome particularly in the West. Axel Harneit-Sievers points out that the industrialised countries are in favour of the fact that NEPAD characterises a joint attempt by African heads of state and government to establish a programme, which fights poverty and improves social and economic development. Thus, he claims that NEPAD has “a strong ‘pan-African’ dimension to it.”<sup>168</sup> Moreover, it has been argued by some scholars that NEPAD is being

<sup>164</sup> See HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, paras. 174-188.

<sup>165</sup> HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, para. 189.

<sup>166</sup> See HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, paras. 191-200.

<sup>167</sup> See Axel Harneit-Sievers, “NEPAD: Context and Issues. A European Perspective,” *Journal of Economic, Social and Cultural Rights* 1, no. 3 (2002): 113. Rachel Hayman, “Wooing the West or Championing Africa? NEPAD’s Vision for African Integration,” in *The New Partnership for Africa’s Development (NEPAD): Internal and External Visions*, ed. Rachel Hayman, Kenneth King and Simon McGrath, 1-22 (Edinburgh: Centre of African Studies, University of Edinburgh, 2003), 19. FIDH, *A Human Rights Approach to the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 3.

<sup>168</sup> Harneit-Sievers, “NEPAD: Context and Issues. A European Perspective,” 113.

hailed in the West for its utilisation of neo-liberal language, which relates closely to the language employed in donor policy papers.<sup>169</sup> As Ian Taylor puts it, the message communicated by NEPAD “fitted the global neo-liberal discourse rather than seriously interrogating the international political economy.”<sup>170</sup> However, apart from the above-mentioned positive reactions towards this programme, which come mostly from the West, criticisms about NEPAD exist in abundance. Consequently, general and human rights-related disapproval concerning this development programme will be further explored in the next two sections.

#### 2.4.2 General Criticisms Regarding NEPAD

An examination of the literature on NEPAD reveals that there exist three recurring major criticisms in regard to Africa’s principal development programme. The first critique, standing in complete contrast to the West’s perception elaborated above, relates to the theory of neo-liberalism. This theory claims that integration into the globalised economy takes place through the liberalisation of markets and the free flow of capital.<sup>171</sup> Various authors argue that these neo-liberal economic principles underlie the NEPAD, despite having caused great harm on the continent of Africa in the past.<sup>172</sup> As Eddy Maloka points out, NEPAD is a corroboration of the so-called post-Washington Consensus and its neo-liberal prescriptions. It is a repackaging of the infamous SAPs so heavily employed by the IFIs, such as the World Bank and the International Monetary Fund (IMF).<sup>173</sup> In fact, Pieter Fourie and Brendan Vickers as well as Yash Tandon emphasise that the NEPAD base document does mention the failure of SAPs only superficially. Also, it refrains from investigating some of its harsher effects on the African people, the latter’s reproaches not being mentioned at all.<sup>174</sup> Considering the above, Tandon rightfully asks the question: “Kann eine solche Renaissance tatsächlich greifen, wenn sich

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<sup>169</sup> See Hayman, “Wooing the West or Championing Africa? NEPAD’s Vision for African Integration,” 4. Ian Taylor, “Commentary: The New Partnership for Africa’s Development and the Zimbabwe Elections: Implications and Prospects for the Future,” *African Affairs* 101 (2002): 404.

<sup>170</sup> Taylor, “Commentary: The New Partnership for Africa’s Development and the Zimbabwe Elections: Implications and Prospects for the Future,” 404.

<sup>171</sup> See Yash Tandon, “Noble Ziele – Schlechte Wege,” *afrika süd* 3 (2002): 25.

<sup>172</sup> See Neville Alexander, “Panafrikanismus in Zeiten der Globalisierung,” *afrika süd* 2 (2004): 23. Conference on Civil Society, “Conference on Civil Society and the New Partnership for Africa’s Development (NEPAD) – Communiqué,” *Journal of Economic, Social and Cultural Rights* 1, no. 3 (2002): 123. Pieter Fourie and Brendan Vickers, “African Economic Pragmatism, NEPAD and Policy Prostitution,” *Africa Insight* 33 (2003): 14. Hayman, “Wooing the West or Championing Africa? NEPAD’s Vision for African Integration,” 4. Eddy Maloka, “Nepad and Africa’s Future,” *Africa Insight* 32, no. 2 (2002): 65. Henning Melber, “Südafrika und Nepad: Welche Partnerschaft für Welche Interessen?” *afrika süd* 2 (2004): 26. Tandon, “Noble Ziele – Schlechte Wege,” 25.

<sup>173</sup> See Maloka, “Nepad and Africa’s Future,” 65.

<sup>174</sup> See Fourie and Vickers, “African Economic Pragmatism, NEPAD and Policy Prostitution,” 14. Tandon, “Noble Ziele – Schlechte Wege,” 26.

Afrika weiter in ein asymmetrisches globalisiertes System integriert, das von wenigen Ländern dominiert wird?“<sup>175</sup> (Can such a renaissance indeed work if Africa continues to integrate itself into an asymmetrical globalised system, which is dominated by only a few countries?) (translation own). NEPAD, he explains, is very clear on this matter, the document favouring the integration of Africa since its heads of state and government do not see an alternative to the integration into a neo-liberal globalised model of development.<sup>176</sup> However, as Henning Melber points out, critics see the danger that this will lead to a legitimisation of the existing inequality in the world instead of the declared restructuring to reduce it. This situation, then, upholds the powerless and vulnerable dependency of African states.<sup>177</sup>

A second criticism repeatedly voiced by scholars is the argument that NEPAD seems to be more addressed to the West and its priorities (i.e. neo-liberalism) than to its own people, whom the development programme is actually for.<sup>178</sup> Tandon simply but nevertheless plainly observes that “the people are asked to join after the leaders have consulted with the donor community and the private sector, chronologically (and materially) putting the agreement with the donors before that with the people.”<sup>179</sup> Whereas Konrad Melchers describes this trend as a “Diskurs im Elfenbeinturm”<sup>180</sup> (discourse in the ivory tower) (translation own), Fourie and Vickers state that NEPAD is increasingly perceived as “sycophancy aimed at a First World audience.”<sup>181</sup> As a consequence, Eze Onyekpere as well as the Conference on Civil Society question the legitimacy of NEPAD and raise the matter as to whom this development programme is accountable.<sup>182</sup> That in mind, Onyekpere argues that Africa’s leaders are of the opinion that the legitimacy of

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<sup>175</sup> Tandon, “Noble Ziele – Schlechte Wege,” 25.

<sup>176</sup> See Tandon, “Noble Ziele – Schlechte Wege,” 25.

<sup>177</sup> See Melber, “Südafrika und Nepad: Welche Partnerschaft für Welche Interessen?,” 26.

<sup>178</sup> See Conference on Civil Society, “Conference on Civil Society and the New Partnership for Africa’s Development (NEPAD) – Communiqué,” 123. Fourie and Vickers, “African Economic Pragmatism, NEPAD and Policy Prostitution,” 13. Ross Herbert, “The African Union and Nepad in 2002,” in *South African Yearbook of International Affairs, 2002/03* (Johannesburg: South African Institute of International Affairs, 2003), 252. HRW, “Human Rights in Security and Development: Recommendations for the G8 Summit, June 2002, including the G8’s Action Plan for Africa,” 5. Ronald Labonte *et al.*, *Fatal Indifference: The G8, Africa and Global Health* (Lansdowne: The University of Cape Town Press, 2004), 129. Maloka, “Nepad and Africa’s Future,” 65. Konrad Melchers, “Diskurs im Elfenbeinturm,” *afrika süd* 4 (2003): 22. Eze Onyekpere, “Perspectives on the New Partnership for Africa’s Development,” *Journal of Economic, Social and Cultural Rights* 1, no. 3 (2002): 15. Tandon, “Noble Ziele – Schlechte Wege,” 25.

<sup>179</sup> Yash Tandon, “New Partnership for Africa’s Development (NEPAD) and Conflict Resolution in Africa in the Light of September Eleven,” *Journal of Economic, Social and Cultural Rights* 1, no. 3 (2002): 55.

<sup>180</sup> Melchers, “Diskurs im Elfenbeinturm,” 22.

<sup>181</sup> Fourie and Vickers, “African Economic Pragmatism, NEPAD and Policy Prostitution,” 13.

<sup>182</sup> See Conference on Civil Society, “Conference on Civil Society and the New Partnership for Africa’s Development (NEPAD) – Communiqué,” 123. Onyekpere, “Perspectives on the New Partnership for Africa’s Development,” 6-7.

the NEPAD process lies in its acceptance by the West and not by Africans themselves.<sup>183</sup>

Finally, a third criticism debated in relation to NEPAD concerns the lack of a provision, which sets out the obligations by donors to support Africa in its international debt and trade issues.<sup>184</sup> In terms of foreign debt, Fourie and Vickers as well as Neville Gabriel reveal that the matter of the cancellation of debt is only referred to superficially in the NEPAD base document. Thus, it plays only a minor part in the development programme.<sup>185</sup> However, as Fourie and Vickers argue, the debt issue is at the core of Africa's inability to allocate resources and should, therefore, receive much more attention.<sup>186</sup> Concerning the aspect of international trade, similar arguments can be observed. Both, Fourie and Vickers and also Onyekpere maintain that NEPAD barely touches the issue of the renegotiation of international terms of trade despite its unfairness towards African countries.<sup>187</sup> Commenting on the World Trade Organisation's (WTO) framework and the African development programme, Onyekpere explains: "NEPAD sees nothing wrong with the current process of world trade under the WTO that is skewed against African countries and makes no strong recommendations for renegotiation."<sup>188</sup>

#### 2.4.3 NEPAD's Lack of an RBA to Development

All of the states that are members of NEPAD are also parties to the major international human rights conventions, thereby declaring that they have a legal obligation to respect, protect and fulfil fundamental human rights. In addition, these states have signed the Constitutive Act of the AU, which has among its objectives the promotion and protection of human rights. Moreover, all NEPAD member states are parties to the African Charter on Human and Peoples' Rights.<sup>189</sup> Finally, NEPAD's Declaration on Democracy, Political, Economic and Corporate Governance, established in July 2002, also

<sup>183</sup> See Onyekpere, "Perspectives on the New Partnership for Africa's Development," 15.

<sup>184</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 13. Neville Gabriel, "Zivilgesellschaft und Armutsbekämpfung im Südlichen Afrika," *afrika süd* 5 (2003): 21. Hayman, "Wooring the West or Championing Africa? NEPAD's Vision for African Integration," 5. Onyekpere, "Perspectives on the New Partnership for Africa's Development," 22.

<sup>185</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 13. Gabriel, "Zivilgesellschaft und Armutsbekämpfung im Südlichen Afrika," 21.

<sup>186</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 13.

<sup>187</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 13. Onyekpere, "Perspectives on the New Partnership for Africa's Development," 22.

<sup>188</sup> Onyekpere, "Perspectives on the New Partnership for Africa's Development," 22.

<sup>189</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 15.

affirms member states' commitments to African and international human rights instruments.<sup>190</sup> Consequently, there exist a vast number of obligations for NEPAD to acknowledge the existing international human rights framework and to comply with it.<sup>191</sup> Nevertheless, various authors observe that the NEPAD document does not include human rights language to affirm its development goals, thus lacking an RBA to development.<sup>192</sup> While Magnus Killander defends the programme by pointing out that "human rights are not the main focus in ... the NEPAD declaration,"<sup>193</sup> Sengupta comments on the current situation as follows: "NEPAD does not yet explicitly state the centrality (or primacy) of human rights. Rather, human rights concerns ... are addressed as broadly defined actions. The principles and objectives of human rights are not sufficiently woven or integrated into the overall strategic plan of action."<sup>194</sup> While this statement is rather general in its character, a few scholars make specific arguments in regard to NEPAD's insufficient dealing with rights and, in particular, with ESC rights. Manby, the Canadian Council for International Co-operation (CCIC) and the NGO Rights and Democracy point out that ESC rights are only vaguely referred to as an issue of access to greater services, however, not as concrete rights that provide legal entitlements to these services.<sup>195</sup> Yet, Manby warns that "without this type of commitment, NEPAD risks endorsing skewed development of the type found in many resource-rich African countries ... where only a small minority has benefitted from those riches."<sup>196</sup> Having commented on human rights in general, the following paragraphs will look at particular rights where the lack of an RBA to NEPAD becomes most evident.

Criticism of NEPAD has been harshest over the question of public consultation and participation. This issue has been mentioned by almost every source that writes on Africa's new development programme. A great number of scholars argue that there

<sup>190</sup> See Assembly of Heads of State and Government (AHSG). Declaration on Democracy, Political, Economic and Corporate Governance (Durban: AHSG, 8 July 2002), Thirty-Eighth Ordinary Session of the Organization of African Unity, AHG/235 (XXXVIII) Annex I, 2-3.

<sup>191</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 15.

<sup>192</sup> See African Civil Society, "African Civil Society Declaration on NEPAD," [http://www.ifg.org/wssd/acsnepad\\_decl.htm](http://www.ifg.org/wssd/acsnepad_decl.htm) (accessed March 18, 2006). CCIC, *The New Partnership for Africa's Development (NEPAD): A Commentary*, 4. Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1002. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 5. Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, 11.

<sup>193</sup> Magnus Killander, interview carried out by email, 8 May, 2006.

<sup>194</sup> Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, 11.

<sup>195</sup> See CCIC, *The New Partnership for Africa's Development (NEPAD): A Commentary*, 4. Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1003. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 5.

<sup>196</sup> Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1003.

exists an enormous lack of participation due to NEPAD's engagement in a so-called top-down approach, the NEPAD document thus having limited political legitimacy.<sup>197</sup> This is despite the fact that the NEPAD base document itself speaks of ownership of the African peoples and asks them to unite for this cause. Paragraph 51 of the document states: "The New Partnership for Africa's Development will be successful only if it is owned by the African peoples united in their diversity."<sup>198</sup> However, as Ronald Labonte *et al.* point out, African civil society was not consulted during the formulation phase of NEPAD. Consultation only took place after African heads of state had presented the new development programme to the G8 summit in Genoa in 2001 and the World Economic Forum in New York in 2002. Moreover, the authors maintain that NEPAD's Initial Action Plan and the Summary of the NEPAD Action Plan have not been available as hard copies until July 2002 while other NEPAD documents are not accessible to the public at all.<sup>199</sup> Similarly, the South African newspaper, *The Citizen*, affirms that according to a Markinor survey, 80 per cent of the population of South Africa had never heard of NEPAD by July 2002.<sup>200</sup> Indeed, as Ross Herbert reports, the Senegalese President, Abdoulaye Wade, at a meeting of African leaders in Nairobi admitted that there has not been much effort to describe NEPAD to the population or ministers and civil servants.<sup>201</sup> Wade concluded that "we have much to do in the way of explaining and communicating about Nepad. We haven't yet done what we should do on this."<sup>202</sup> Nevertheless, Amnesty International USA (AIUSA) claims that it is extremely important to include civil society as central partners in the formulation, implementation and evaluation of NEPAD if Africa's new development programme is supposed to lead to success in terms of sustainable growth and development.<sup>203</sup>

Another aspect where criticism on NEPAD is widespread concerns the lack of attention to the issue of HIV/AIDS. Rights and Democracy declares that HIV/AIDS has such a

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<sup>197</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 12. Hayman, "Wooing the West or Championing Africa? NEPAD's Vision for African Integration," 12-13. Herbert, "The African Union and Nepad in 2002," 252. Labonte *et al.*, *Fatal Indifference: The G8, Africa and Global Health*, 140. Onyekpere, "Perspectives on the New Partnership for Africa's Development," 6-7.

<sup>198</sup> HSGIC, *The New Partnership for Africa's Development (NEPAD)*, para. 51.

<sup>199</sup> See Labonte *et al.*, *Fatal Indifference: The G8, Africa and Global Health*, 140.

<sup>200</sup> See *The Citizen*, Johannesburg, 6 July 2002, in Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 12.

<sup>201</sup> See Herbert, "The African Union and Nepad in 2002," 253.

<sup>202</sup> *South African Broadcasting Corporation*, 5 February 2003, in Herbert, "The African Union and Nepad in 2002," 253.

<sup>203</sup> See AIUSA, "Civil Society, Democracy, Human Rights and NEPAD: The Missing Links," testimony of Adotei Akwei, African Advocacy Director, Amnesty International USA before the U.S. House of Representatives Africa Subcommittee, September 18 2002, [http://wwwc.house.gov/international\\_relations/107/akwe0918.htm](http://wwwc.house.gov/international_relations/107/akwe0918.htm) (accessed October 23, 2004).

severe negative impact on the population of Africa that it poses one of the most significant threats to the well-being of millions of Africans, now as well as in the future.<sup>204</sup> Similarly, Manby notes that HIV/AIDS is the most serious development challenge presently confronting the continent of Africa, next to war.<sup>205</sup> In fact, a report released by the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Health Organisation (WHO) states that at the end of the year 2005 more than 60 per cent of all people living in sub-Saharan Africa, or about 25.8 million, were HIV-positive. Moreover, 3.2 million people became newly infected in 2005. Approximately 2.4 million died of the disease.<sup>206</sup> Nevertheless, various scholars point out that NEPAD fails not only to recognise the seriousness of the pandemic but also falls short of providing a strategy for addressing the HIV/AIDS crisis.<sup>207</sup> The UN Secretary General's Special Envoy for HIV/AIDS, Stephen Lewis, rightfully asks how one can talk about the future of sub-Saharan Africa without taking into account the major issue of HIV/AIDS.<sup>208</sup> He criticises NEPAD's approach to HIV/AIDS by stating:

for all its talk of trade, and investment, and governance, and corruption, and matters relating to financial architecture, there is only a pro forma sense of the social sectors, only modest references to the human side of the ledger. And in fashion quite startling, in fact, disturbingly startling, NEPAD hardly mentions HIV/AIDS at all ... unless we deal with HIV/AIDS, all the proud declarations of NEPAD are doomed.<sup>209</sup>

Connected to the issue of HIV/AIDS is the right to health, which Labonte *et al.* argue, is not perceived as a legal obligation in NEPAD. Rather, they maintain, health is seen as a means to achieve economic growth.<sup>210</sup> Similarly, FIDH claims that ESC rights, including education and health, are not recognised as human rights where there is the distinction of rights-holders and duty-bearers. Instead, NEPAD looks at the economic

<sup>204</sup> See Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 8.

<sup>205</sup> See Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1015.

<sup>206</sup> See Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Health Organisation (WHO), *AIDS Epidemic Update: December 2005* (UNAIDS/WHO, 2005), 17.

<sup>207</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 14. Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1017. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 9.

<sup>208</sup> See Stephen Lewis, *Speech by the HIV/AIDS Special Envoy to Kofi Annan* (June 2002, in the run-up to the G8 Summit in Kananaskis, Canada), 3.

<sup>209</sup> Lewis, *Speech by the HIV/AIDS Special Envoy to Kofi Annan*, 3-4.

<sup>210</sup> See Labonte *et al.*, *Fatal Indifference: The G8, Africa and Global Health*, 140.

profit that can be derived from an efficient health system, turning “what should be an objective into a mere development instrument.”<sup>211</sup>

Criticism is also present regarding the issue of women’s rights and, thus, gender inequality within NEPAD. Generally, it is widely known that incidents of conflict and poverty have had a particularly damaging impact on the female population of Africa, women being disproportionately harmed by economic and development policies.<sup>212</sup> Yet, scholars have repeatedly argued that, despite NEPAD’s affirmation to “promote the role of women in social and economic development,”<sup>213</sup> the African development programme does lack an adequate gender analysis.<sup>214</sup> AIUSA claims that the goal of NEPAD to empower women appears to be more “of a gesture to political correctness” than a truly pursued aim, not referring to any of the challenges women presently face.<sup>215</sup> More specifically, FIDH maintains that NEPAD falls short of addressing the particular effects of economic policies, which often lead to gender inequality.<sup>216</sup> Among the economic policies affecting men and women differently and, in fact, harming the latter are SAPs and trade liberalisation policies.<sup>217</sup> Equally so, the Gender and Economic Reforms in Africa (GERA) Programme states that NEPAD “does not take into account the social relations within the market, in particular those of power that underlie the rules, access to and control over resources and activities in the market.”<sup>218</sup> Moreover, GERA points out that this failure to address social and gender inequalities perpetuates the marginalisation of women and other underprivileged groups in the market

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<sup>211</sup> FIDH, *A Human Rights Approach to the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 87, 101.

<sup>212</sup> See Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa’s Development in the New Millennium; In Preparation for the G8 Summit*, 7.

<sup>213</sup> HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, para. 49.

<sup>214</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 98. Manby, “The African Union, NEPAD, and Human Rights: The Missing Agenda,” 1004-1005. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa’s Development in the New Millennium; In Preparation for the G8 Summit*, 8.

<sup>215</sup> AIUSA, “Civil Society, Democracy, Human Rights and NEPAD: The Missing Links,” testimony of Adotei Akwei, African Advocacy Director, Amnesty International USA before the U.S. House of Representatives Africa Subcommittee, September 18 2002, [http://www.house.gov/international\\_relations/107/akwe0918.htm](http://www.house.gov/international_relations/107/akwe0918.htm) (accessed October 23, 2004).

<sup>216</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 98.

<sup>217</sup> See Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa’s Development in the New Millennium; In Preparation for the G8 Summit*, 7.

<sup>218</sup> Gender and Economic Reforms in Africa (GERA) Programme, *The NEPAD and the Challenges of Financing for Development in Africa from a Gender Perspective*, in Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa’s Development in the New Millennium; In Preparation for the G8 Summit*, 8.

system.<sup>219</sup> However, NEPAD's aim to integrate itself into the world economy and, in addition, to reach a status of sustainable growth and development depends on the successful integration of all African people into the development process. FIDH makes unequivocally clear that: "As a program specifically aimed at getting Africa out of its current marginalized position in the world economy, NEPAD cannot afford to let certain categories of the African populations remain outside the development process."<sup>220</sup>

The list of issues where NEPAD lacks an RBA to development could be continued. Among other aspects, one could expand on the development programme's limited reference to the most vulnerable, to the right to education and to workers' rights.<sup>221</sup> However, since it has become clear by now that NEPAD does indeed lack an RBA, the last paragraph will focus on NEPAD and the Zimbabwe elections. This instance has often been called the test case for evaluating the programme's credibility.<sup>222</sup> In addition, this event can also serve as the test case for assessing NEPAD's adherence to an RBA.

Despite the NEPAD base document stressing that "Africa undertakes to respect the global standards of democracy, which core components include political pluralism, allowing for the existence of several political parties and workers' unions, fair, open, free and democratic elections periodically organised to enable the populace choose their leaders freely,"<sup>223</sup> Africa's new development programme failed to adhere to this promise in the Zimbabwean elections in 2001. Instead of holding elections as envisioned above, Zimbabwean President Robert Mugabe and his political party, the Zimbabwe African National Union-Patriotic Front, violated these internationally agreed-upon standards. Mugabe and his party attempted to keep hold of their political power at all costs. Rather than trying to change the unfolding situation in Zimbabwe at the time, many African leaders, South African President Thabo Mbeki being only one example, positioned themselves behind Mugabe.<sup>224</sup> As Onyekpere stresses, the Nigerian delegation

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<sup>219</sup> See GERA Programme, *The NEPAD and the Challenges of Financing for Development in Africa from a Gender Perspective*, in *Rights and Democracy, Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 8.

<sup>220</sup> FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 88.

<sup>221</sup> See CCIC, *The New Partnership for Africa's Development (NEPAD)*, 4-5.

<sup>222</sup> See Onyekpere, "Perspectives on the New Partnership for Africa's Development," 21. Taylor, "Commentary: The New Partnership for Africa's Development and the Zimbabwe Elections: Implications and Prospects for the Future," 405-407.

<sup>223</sup> HSGIC, *The New Partnership for Africa's Development (NEPAD)*, para. 79.

<sup>224</sup> See Taylor, "Commentary: The New Partnership for Africa's Development and the Zimbabwe Elections: Implications and Prospects for the Future," 403-405.

which monitored the Zimbabwean elections declared the voting to have been fair, open, free and democratic. The South African delegation, while admitting that there had been some problems initiated by the government and the opposition, nevertheless announced that the elections were legitimate.<sup>225</sup> As a consequence, many scholars view the test case of Zimbabwe as having diminished NEPAD's authority as a successful development programme for Africa's renewal. Taylor explains that within the context of NEPAD, the Zimbabwe elections were a clear opportunity for African leaders to prove that they had learned to include tolerance and democracy into their politics. Nevertheless, they completely missed this opportunity.<sup>226</sup> Morgan Tsvangirai, leader of Zimbabwe's opposition Movement for Democratic Change, summarises the problem with NEPAD as follows: "You know this is the saddest thing about Africa, all these flowery declarations and all without commitment. There's no commitment because there is no holding to account. ... The declarations are not worth the paper they're written on. Releasing such paper creates a feel-good atmosphere and, when leaders are reminded of what they have signed, they retreat into the defence of the sovereignty of nations."<sup>227</sup>

The paragraphs above present a general overview of the lack of an RBA to NEPAD. However, the analysis would be incomplete if the progress being made by NEPAD and its partners was not addressed. One of the most recent documents reporting on these achievements is the *Third Consolidated Report on Progress in Implementation and International Support* prepared by Annan for the General Assembly in August 2005. Compared to the various human rights-related issues mentioned above, the greatest progress has been achieved in the area of HIV/AIDS. Annan states that the NEPAD Steering Committee has adopted a 'Fight Against AIDS' plan, which concentrates on HIV/AIDS' impact on the African continent. Moreover, HIV/AIDS has become a major part in all of NEPAD's programmes.<sup>228</sup> Similarly, progress has been reported in the fields of health, education, gender mainstreaming and civil society involvement.<sup>229</sup> Yet, this does not suggest that the criticism voiced has vanished. For example, despite the fact that there now exists determination on the part of NEPAD to involve civil society in

<sup>225</sup> See Onyekpere, "Perspectives on the New Partnership for Africa's Development," 21.

<sup>226</sup> See Taylor, "Commentary: The New Partnership for Africa's Development and the Zimbabwe Elections: Implications and Prospects for the Future," 406-407.

<sup>227</sup> Cited in Stephen Chan, "Commonwealth Residualism and the Machinations of Power in a Turbulent Zimbabwe," *Commonwealth and Comparative Politics* 39, no. 3 (2001): 71, in Taylor, "Commentary: The New Partnership for Africa's Development and the Zimbabwe Elections: Implications and Prospects for the Future," 405-406.

<sup>228</sup> See Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, 6.

<sup>229</sup> See Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, 6-7, 12.

the implementation of NEPAD programmes and actions,<sup>230</sup> this move, one could argue, comes a little too late. After all, NEPAD has been Africa's socio-economic development programme for almost five years now. A parallel argument can be made for the aspect of gender mainstreaming, the NEPAD secretariat at last having established a unit on gender issues in September 2004.<sup>231</sup> Finally, although progress in these areas is being made, there is neither an indication nor an outright declaration that this is done in a human rights-based manner. The progress report at no point mentions the RBA to development, let alone its implementation to NEPAD. This indicates that NEPAD still fails to integrate human rights standards and principles into its development programme. So the question still remains as to why this is so? One possible answer is that there exist various obstacles to implementing an RBA to NEPAD. Consequently, the following chapter identifies the principal economic impediment: SAPs employed by the World Bank.

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<sup>230</sup> See Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, 12.

<sup>231</sup> See Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, 12.

## Chapter 3

### 3. Identification of the World Bank's SAPs as the Major Economic Obstacle to Implementing an RBA to NEPAD

Undeniably, one could discover a wide range of obstacles to implementing an RBA to NEPAD. Law-related, political, cultural or even technical hindrances come to mind. However, this thesis concentrates on the principal economic impediment to applying an RBA to NEPAD: the so-called SAPs. Why the focus is on SAPs in particular is best explained by the Structural Adjustment Participatory Review International Network (SAPRIN). It states: "One factor, more than any other, has crippled national economies, increased poverty and inequality, and made millions of people hungry. It is a set of policies, called structural adjustment, that has been forced on developing countries for more than 20 years by the World Bank, the International Monetary Fund and Western aid agencies."<sup>232</sup> Due to the major negative impact that SAPs have had on developing countries' national economies and human rights-related matters, the project will concentrate solely on this aspect. Moreover, it can be gathered from the above quotation that the World Bank plays a significant part in the employment of SAPs in developing states. In fact, Chris Jochnick points out that the Bank is the principal source of international funding for development programmes of Third World countries.<sup>233</sup> Consequently, the thesis focuses exclusively on the World Bank as a key provider of SAPs.<sup>234</sup>

Because the question often arises as to how the World Bank can be linked to the field of human rights, the chapter will start off with a discussion on the Bank and its relationship to this particular subject. It will be argued that this IFI does have universal human rights obligations; yet the World Bank, despite increasingly engaging in human rights-related work, denies this responsibility. To a large degree, this attitude becomes apparent in the organisation's deployment of SAPs in developing countries, especially in sub-Saharan Africa. But what exactly are these SAPs? An introduction to SAPs follows

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<sup>232</sup> Structural Adjustment Participatory Review International Network (SAPRIN), *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality* (London: Zed Books, 2004), intro.

<sup>233</sup> See Chris Jochnick, "Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights," *Human Rights Quarterly* 21 (1999): 68-69.

<sup>234</sup> It is important to state at this point that, apart from the World Bank, other aid agencies, such as the IMF or individual industrialised countries, also employ SAPs. Therefore, they too have international human rights obligations. Nevertheless, as mentioned at the beginning of the chapter, this thesis focuses solely on the international financial institution of the World Bank as the world's largest provider of foreign aid. Consequently, while the significance of other aid agencies' SAPs is acknowledged, they are not focussed on in the debate.

the World Bank and human rights section. The last segment reveals SAPs, as utilised by the World Bank, as the major economic obstacle to implementing an RBA to NEPAD.

### **3.1 The World Bank and Human Rights**

#### *3.1.1 Evolution of the World Bank*

The years after World War I were characterised by economic tensions and conflicts between states due to the high costs associated with war debts and the recovering of the economy. To prevent a recurrence of these problems after World War II, representatives from 44 countries met in July 1944 in the town of Bretton Woods, New Hampshire, to establish an international institutional framework for future economic cooperation. In addition to the creation of the IMF and the General Agreement on Tariffs and Trade, the Bretton Woods conference led to the establishment of the International Bank for Reconstruction and Development (IBRD). The IBRD is now one of the five institutions within the World Bank Group. It was formed to assist postwar reconstruction in Europe as well as economic development in developing countries with long-term loans. However, because the former task proved to be beyond the IBRD's available resources, the United States launched a European Recovery Programme, also known as the Marshall Plan, which took over the mission of European reconstruction. The IBRD, as a consequence, started focussing on providing financial assistance to the economic development of the Third World.<sup>235</sup> During its first 15 years of existence it became apparent that there are two types of less developed countries (LDCs): middle-income LDCs and low-income LDCs. It was acknowledged that the poorest LDCs needed preferential terms to be able to borrow money and so in 1960 the industrialised states agreed on establishing the International Development Association (IDA). The IDA offered long-term soft loans at zero interest to low-income LDCs compared to the rather high interest rate hard loans of the IBRD.<sup>236</sup> Today, the World Bank consists of four multilateral financial institutions and one non-financial institution: the IBRD - 1945; the IDA - 1960; the International Finance Cooperation - 1956; the Multilateral Investment Guarantee Agency - 1988; and the International Centre for Settlement of Investment Disputes - 1966, respectively.<sup>237</sup> Future reference to the IFI of the World Bank should

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<sup>235</sup> See Theodore Cohn, *Global Political Economy: Theory and Practice*, 2nd ed. (New York: Longman, 2003), 3, 31. Bahram Ghazi, *The IMF, the World Bank Group and the Question of Human Rights* (Ardsey: Transnational Publishers, 2005), 19-20.

<sup>236</sup> See Cohn, *Global Political Economy: Theory and Practice*, 50. Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 24.

<sup>237</sup> Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 19-34.

be understood as particular reference to the IBRD and the IDA, for they are the two institutions within the World Bank Group financially supporting developing countries on the premise of the employment of SAPs.

### 3.1.2 *The Gradual Integration of Human Rights Into the World Bank's Work*

When the World Bank was established in 1945, no direct link was made to the issue of international human rights. For a long time, the fields of financial and human rights operations were seen as two separate undertakings without any influence on each other. This perception slowly changed in the 1960s when the UN General Assembly repeatedly passed resolutions demanding of the World Bank, as well as of the IMF, to stop their financial support to Portugal and South Africa. Both states were guilty of employing the human rights violating regime of apartheid at the time. Another major shift occurred in the 1980s with the introduction by the Bank of SAPs. Because of the negative social effects of SAPs experienced by developing countries over time, a more profound link was established between the IFI's policies and the national human rights situation in Third World states.<sup>238</sup> This development was further supported by the changing nature of international human rights law. While until 1945 international human rights law did not take into account national level domestic affairs of states, this situation changed with the adoption of the United Nations Charter and the heightened focus on human rights as one of the four purposes of the newly created UN.<sup>239</sup> The subsequent years saw the acceptance of the Universal Declaration of Human Rights in 1948 and the coming into force of the ICCPR and the ICESCR in 1976. As Rhona Smith explains, together these instruments "form the foundation of international human rights protection, as advocated by the United Nations."<sup>240</sup> The growing significance of international human rights law was accompanied by an expansion in the number of international organisations, which increasingly engaged in multilateral international interactions influencing countries' national policies.<sup>241</sup> In reiterating today's strong link between international human rights and international organisations, such as the World Bank, Sigrun Skogly maintains: "As international actors are becoming more important in international

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<sup>238</sup> See Sigrun Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund* (London: Cavendish Publishing Limited, 2001), 6, 36.

<sup>239</sup> See Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 12.

<sup>240</sup> See Rhona Smith, *Textbook on International Human Rights* (Oxford: Oxford University Press, 2003), 30.

<sup>241</sup> See Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 11.

co-operation, and not least their increased influence on national policies, their impact – positive and negative – on human rights deserves attention.”<sup>242</sup>

Although the Bank is still reluctant to make regular use of the term ‘human rights’, it has nevertheless begun to take human rights-related issues into account when these interfere with its economic activities.<sup>243</sup> For example, Operational Directive 4.20 on indigenous peoples, which was issued by the IFI in September 1991, includes one of the first explicit references to human rights.<sup>244</sup> Seven years later, the World Bank published the report *Development and Human Rights: The Role of the World Bank* that focused on the institution’s operations and human rights.<sup>245</sup> Finally, Bahram Ghazi states that the World Bank in recent years has developed activities, which incorporate the notion of human rights, including women’s rights, children’s rights, indigenous rights, labour rights and the rights to education and health.<sup>246</sup> Thus, it should be acknowledged at this point that the Bank has, to a certain extent, acted upon the criticisms voiced by many related to its projects’ and operations’ negative impact on human rights.<sup>247</sup> However, despite these improvements of the IFI’s integration of human rights into its work over the last years, obstacles persist. Most importantly, the World Bank continues to deny any legal obligations towards international human rights standards.<sup>248</sup> Whether this attitude is based on legitimate reasons and can thus be upheld or whether, instead, the Bank is legally obliged to respect, protect and fulfil international human rights, will be explored in the following section.

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<sup>242</sup> Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 13.

<sup>243</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 59.

<sup>244</sup> See World Bank, *Operational Directive 4.20*, September 1991.

<sup>245</sup> See World Bank, *Development and Human Rights: The Role of the World Bank* (Washington D.C.: World Bank, 1998).

<sup>246</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 83.

<sup>247</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 59.

<sup>248</sup> See Mac Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law* (Portland: Hart Publishing, 2003), 65. Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 83. Róisín Hennessy, “Defining States’ International Legal Obligations to Cooperate for the Achievement of Human Development : One Aspect of Operationalising a Human Rights-Based Approach to Development,” in *Human Rights in Development Yearbook 2002. Empowerment, Participation, Accountability and Non-Discrimination: Operationalising a Human Rights-Based Approach to Development*, eds. Martin Scheinin and Markku Suksi, 71-98 (Leiden: Martinus Nijhoff Publishers, 2005), 75, 89. Jochnick, “Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights,” 70, 77. Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 39.

### 3.1.3 A Fundamental Debate: The World Bank's International Legal Obligations Towards Human Rights

Before an inquiry can be made into the question of the World Bank's international legal obligations towards human rights, it has to be proven whether the financial institution possesses international legal personality. If this is so, the Bank can be referred to as a subject of international law and can, thus, be held accountable for the activities where misconduct has been discovered. Due to the limited scope of a Masters thesis and, more importantly, the acknowledgement by many authors that the World Bank does possess international legal personality,<sup>249</sup> this topic will not be discussed any further. Instead, the following discussion derives from the well-established assumption that the Bank does have international legal personality. As Jean Ziegler, the Special Rapporteur of the United Nations Commission on Human Rights on the right to food, stated in a recent report: "There is no question today that international organizations such as the World Bank, IMF and WTO have legal personality under international law."<sup>250</sup>

Having confirmed the international legal personality of the World Bank, this section will now turn to the most popular reasons presented over the years by the Bank and its supporters for denying its international legal obligations towards human rights. Each argument will be followed by one or more counter-arguments put forward by human rights advocates, thereby providing the reader with a broad overview of the fundamental debate in this particular field of study.

#### 3.1.3.1 The World Bank's 'Political Prohibition' Article

The cornerstone of the World Bank's argumentation against the institution's international human rights obligations is to be found in the Bank's charter, the so-called *Articles of Agreement*. Article IV, Section 10 of the Articles of Agreement of the IBRD, as well as the IDA equivalent, spell out the IFI's mandate as an organisation in relation to its members. The paragraph states that:

The Bank and its officers *shall not interfere in the political affairs* of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned. *Only economic considerations* shall be relevant to their decisions, and these considerations

<sup>249</sup> See Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, 126. Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 105. Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 68. UN General Assembly. Ziegler, Jean, *The Right to Food*, 12 September 2005, A/60/350.

<sup>250</sup> UN General Assembly. Ziegler, Jean, *The Right to Food*, 12 September 2005, A/60/350.

shall be weighed impartially in order to achieve the purposes stated in Article I (emphasis added).<sup>251</sup>

This section is also referred to as the 'political prohibition' clause since it disallows the Bank to take into account political considerations in the dealings with its members. Categorising human rights as belonging to the domestic political affairs of its members, the financial institution argues that the issue of human rights falls beyond its mandate and, hence, the scope of its permissible activities. Only economic considerations can be taken into account.<sup>252</sup>

This principal argument put forward by the World Bank in an attempt to deny its international human rights obligations has met resistance on various levels. To begin with, both Mac Darrow and Ghazi point to the fact that the Bank's activities have always been subject to politics. Darrow maintains that the terms 'economic' and 'political' have been artificially and falsely divided and that this became apparent in the IFI's activities in the 1980s and 1990s.<sup>253</sup> Although he does not mention them by name, it can be safely assumed that Darrow, among other aspects, is referring to the Bank's deployment of SAPs during that time. In more detail, Ghazi highlights that the World Bank, by demanding developing countries to employ SAPs so that funding by the institution will be provided, intervenes in the economies of these states. This, he argues, can certainly be perceived as a political act.<sup>254</sup> "The corollary is," Darrow sums up, "that just about everything that the Bank does is 'political.'"<sup>255</sup>

A second argument is put forward by Skogly who maintains that the issue of human rights protection can no longer be perceived as a solely domestic political affair. She provides the reader with three reasons to support her statement: (a) Because the promotion of human rights is one of the major purposes of the United Nations as spelled out in its Charter, the non-intervention article, Article 2(7) of the UN Charter, cannot be taken into consideration as an obstacle to the international engagement in human

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<sup>251</sup> IBRD, *Articles of Agreement*, as amended effective 16 February, 1989, Art. IV, Section 10.

<sup>252</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 111. Jochnick, "Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights," 70. Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 94.

<sup>253</sup> See Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, 192.

<sup>254</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 87-88.

<sup>255</sup> Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, 192.

rights.<sup>256</sup> Article 2(7) forbids the UN to intervene in “matters which are essentially within the domestic jurisdiction of any State.”<sup>257</sup> (b) After the adoption of the UN Charter in 1945, the following years have seen the coming into force of a number of international human rights conventions, thereby adding increased strength to the issue of human rights in international law. (c) Finally, around two-thirds of the world’s countries have now ratified some or all of the afore-mentioned conventions, thus further promoting the internationalisation of human rights.<sup>258</sup> Related to this argument is Ghazi’s claim that the aspect of non-intervention has become a theoretical matter only. Acknowledging that “human rights have been perceived as interfering in states affairs,” he poses the question: “Yet, hasn’t the evolution of international relations, in the direction of greater interdependence, made the ‘non-intervention’ issue theoretical? Isn’t there already an economic and financial situation where intervention is unavoidable?”<sup>259</sup>

A last argument countering the World Bank’s view that its Articles of Agreement shield it from legally adhering to international human rights is presented by Ghazi. He contends that while many people identify human rights as a political issue, it is primarily a legal matter.<sup>260</sup> If the identification of human rights as a political matter was pursued, Ghazi explains, the nature of human rights would be denied. As norms which belong to the internal and international legal systems, human rights are law and, hence, possess the same authority as do other norms that are part of these legal systems.<sup>261</sup>

To render this discussion complete, it needs to be stated that in the last few years, staff from within the World Bank have also acknowledged that the ‘political prohibition’ article has lost its validity. As Ghazi points out, Mr. Sfeir-Younis, former World Bank’s Special Representative in Geneva, certainly shares this opinion. Ghazi writes: “For him, the argument that human rights belong to the political realm, in which the WB [World Bank] cannot interfere, is no longer credible.”<sup>262</sup> Praiseworthy as it may seem, one has to keep in mind, however, that not all Bank members share this belief. Therefore, words are not necessarily followed by serious action.

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<sup>256</sup> See Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 94-98.

<sup>257</sup> UN Charter, signed at the Conclusion of the United Nations Conference on International Organisation on 26 June 1945, entered into force on 24 October 1945, Art. 2(7).

<sup>258</sup> See Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 94-98.

<sup>259</sup> Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 112.

<sup>260</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 112.

<sup>261</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 92-93.

<sup>262</sup> Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 61.

### 3.1.3.2 The Relationship Agreement

A second debate concerning the World Bank's legal obligations towards international human rights surrounds the issue of the so-called 'Relationship Agreement.' This agreement has been interpreted in different ways by the Bank and its supporters on the one hand and human rights advocates on the other. The World Bank is a specialised agency of the United Nations,<sup>263</sup> and as such a contract setting out the relationship between the two was drafted by both institutions. However, as Ghazi highlights, an agreement was not as easily reached as with other specialised agencies of the UN, such as the International Labour Organisation, the UNESCO or the Food and Agriculture Organisation. In fact, because the Bank did not perceive itself as part of the UN system, it drew up its own Relationship Agreement, which was then followed by counter-drafts prepared by the UN. The Relationship Agreement, as it is known today, is based on these drafts and came into force in August 1947.<sup>264</sup> The principal paragraph that the subsequent discussion will focus on is Article 1(2) of the Relationship Agreement. It states:

The Bank is a *specialized agency* established by agreement among its member governments and having wide international responsibilities, as defined in its Articles of Agreement, in economic and related fields within the meaning of Article 57 of the Charter of the United Nations Charter. By reason of the nature of its international responsibilities, the Bank is, and is required to function as, an *independent organization* (emphasis added).<sup>265</sup>

Despite being a specialised agency of the United Nations, the World Bank concentrates on the fact that Article 1(2) of the Relationship Agreement states that the IFI is, and has to function as, an independent organisation. According to Ibrahim Shihata, former Vice President and General Counsel of the World Bank, only Security Council decisions under Articles 41 and 42 of the UN Charter have to be taken into account by the Bank.<sup>266</sup> So, whereas the financial institution puts the emphasis on the independence of the Bank from the UN, human rights advocates highlight the status of the Bank

<sup>263</sup> See Cohn, *Global Political Economy: Theory and Practice*, 33.

<sup>264</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 120.

<sup>265</sup> UN-World Bank Relationship Agreement, adopted in 1947, Art. 1(2).

<sup>266</sup> See Ibrahim Shihata, "The World Bank and Human Rights," in *The World Bank in a Changing World: Selected Essays*, comp. and ed. Franziska Schofen and Antonio R. Parra, 97-134. 2nd ed. (Dordrecht: Martinus Nijhoff Publishers, 1995), 102. Article 41 and 42 of the United Nations Charter refer to the UN's permission as well as responsibility to take measures to maintain or restore international peace and security in case of a threat to one or both. Whereas Art. 41 relates to measures not involving the use of armed force, Art. 42 includes those measures. See UN Charter, Arts. 41 and 42.

as a specialised agency of the UN. On a very basic level, Skogly argues that the corollary of the Relationship Agreement must be that there are certain rights and obligations for the World Bank towards the UN. She notes: "One would ... assume that part of the reasoning behind bringing these organisations [the World Bank and the IMF] into a formalised relationship with the UN must have been to grant them, legally and practically, rights and obligations in relationship to the UN, which would have been different if they were not brought into this relationship through the Agreements."<sup>267</sup> Darrow agrees with Skogly on this point and adds that the independence of the World Bank as stipulated in the Relationship Agreement cannot be taken to mean that the purposes of the UN Charter, including human rights, are undermined or jeopardised.<sup>268</sup> In fact, already back in 1991, Danilo Türk, at the time Special Rapporteur of the Sub-Commission on the Realisation of Economic, Social and Cultural Rights, confirmed that as a UN agency the World Bank is obliged to adhere to the terms of the UN Charter. This includes the passages on human rights found in Articles 55 and 56 of the Charter.<sup>269</sup> Similarly, the Secretary-General of the United Nations in a report to the Commission on Human Rights in 1996 affirmed that:

The International Monetary Fund and the World Bank are international governmental institutions that are fully integrated into the United Nations system as a specialized agency established by governmental agreement in accordance with Article 57 of the Charter of the United Nations. As such, both institutions, like any other United Nations body or any other subject of international law, are bound by the Charter of the United Nations and have a duty to respect the postulates formulated in the Preamble to the Charter, the purposes of the United Nations (Art. 1), the principles governing the actions of the Organization and its Members (Art. 2), the objectives of the Organization in the area of international economic and social cooperation (Arts. 55 and 56), specific provisions aimed at their realization and which are contained in the Charter as well as in other international instruments including, *inter alia*, the International Covenants on Human Rights, international conventions, including the international labour conventions, and resolutions and declarations of the United Nations.<sup>270</sup>

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<sup>267</sup> Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 100.

<sup>268</sup> See Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, 125.

<sup>269</sup> See UN Economic and Social Council, Danilo Türk, *The Realization of Economic, Social and Cultural Rights*, 18 July 1991, E/CN.4/Sub.2/1991/17, para. 53.

<sup>270</sup> UN Economic and Social Council, Boutros-Boutros Ghali, *Question of the Realization in All Countries of the Economic, Social and Cultural Rights Contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and Study of Special Problems which the Developing Countries Face in Their Efforts to Achieve these Human Rights*, 5 February 1996, E/CN.4/1996/22, para. 50.

As can be gathered from the above, Articles 55 and 56 of the UN Charter play a very important part in this discussion. Consequently, they are listed in full below:

55. With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. *universal respect for, and observance of, human rights and fundamental freedoms* for all without distinction as to race, sex, language, or religion (emphasis added).<sup>271</sup>

56. All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.<sup>272</sup>

Together these articles affirm the UN members' responsibility towards the promotion of "universal respect for, and observance of, human rights and fundamental freedoms."<sup>273</sup>

In approving of the significance of Articles 55 and 56 for interpreting the Relationship Agreement between the World Bank and the United Nations, Darrow states: "Looking at Articles 55-57 as a whole, in conjunction with the IMF/UN and Bank/UN Relationship Agreements, it is strongly arguable that co-operation between the IFIs and the UN in the economic and social fields should be based, at least in part, on the principles animating Chapter IX of the Charter."<sup>274</sup>

Despite much evidence that the Relationship Agreement should be understood as a link between the Bank and the UN, which grants the former certain rights and obligations in connection with the latter, controversies persist. Even human rights scholars such as Darrow and Ghazi do acknowledge that the document, and in particular Article 1(2), is problematic.<sup>275</sup> Indeed, Ghazi declares that the Relationship Agreement contains two opposite ideas: the integration of the World Bank into one system of international organisations on the one hand, and the independence of the financial institution

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<sup>271</sup> UN Charter, Art. 55.

<sup>272</sup> UN Charter, Art. 56.

<sup>273</sup> UN Charter, Art. 55.

<sup>274</sup> Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, 128.

<sup>275</sup> See Darrow, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, 125. Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 122.

on the other. However, while agreeing that a certain degree of independence of the Bank was envisaged at the time, Ghazi reminds the reader of two important points: (a) It is more than 50 years ago that the Relationship Agreement was drafted, and many changes on the international plane have taken place since then. Among others, the international human rights regime as well as the World Bank's own activities have grown and progressed. (b) The Agreement cannot be comprehended as a document that prohibits the Bank to fulfil international human rights norms and standards.<sup>276</sup> In conclusion then, focussing on the arguments established above, it can be safely assumed that the World Bank-United Nations Relationship Agreement is another indicator for the Bank's international legal obligations towards human rights.

### 3.1.3.3 The World Bank's Members as States Parties to the ICESCR

A final argument that has been put forward by the World Bank and its advocates to exempt the institution from any human rights obligations concerns its status as an IGO. It has been argued that because the Bank is an organisation and not a state and, hence, is not able to become a party to international human rights conventions, it does not have responsibilities in the area of human rights.<sup>277</sup> However, the counter-argument is straightforward and easily explained: human rights scholars claim that the majority of the states that are members of this IFI are also members to such conventions as the ICESCR and the ICCPR.<sup>278</sup> Consequently and "clearly," as Ziegler noted recently, "international organizations cannot be free to do what their constituents are not permitted to do."<sup>279</sup> Referring to this line of reasoning, it has been increasingly argued over the last few years that states' international obligations to respect, protect and fulfil human rights also apply to the activities of IGOs such as the World Bank that the states are members of.<sup>280</sup> In fact, the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, drafted in 1997, deal with this matter quite intensely.<sup>281</sup> Paragraph 19 of the Guidelines reads as follows:

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<sup>276</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 123.

<sup>277</sup> See Ziegler, *The Right to Food*, 18.

<sup>278</sup> For more detailed information on the number of states that are members of the World Bank as well as the ICESCR, view Bahram Ghazi's table in Ghazi, *The IMF, the World Bank Group, and the Question of Human Rights*, 137.

<sup>279</sup> Ziegler, *The Right to Food*, 19.

<sup>280</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 135-136. Hennessy, "Defining States' International Legal Obligations to Cooperate for the Achievement of Human Development: One Aspect of Operationalising a Human Rights-Based Approach to Development," 88.

<sup>281</sup> The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights were adopted in 1997 by a group of more than 30 experts on the tenth anniversary of the Limburg Principles, which commented on the Implementation of the ICESCR. The Maastricht Guidelines elaborated on the Limburg Principles as regards the nature and scope of violations of ESC rights and appropriate responses and remedies. See Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 1997. In

*The obligations of States to protect economic, social and cultural rights extend also to their participation in international organizations, where they act collectively. It is particularly important for States to use their influence to ensure that violations do not result from the programmes and policies of the organizations of which they are members. It is crucial for the elimination of violations of economic, social and cultural rights for international organizations, including international financial institutions, to correct their policies and practices so that they do not result in deprivation of economic, social and cultural rights. Member States of such organizations, individually or through the governing bodies, as well as the secretariat and nongovernmental organizations should encourage and generalize the trend of several such organizations to revise their policies and programmes to take into account issues of economic, social and cultural rights, especially when these policies and programmes are implemented in countries that lack the resources to resist the pressure brought by international institutions on their decision-making affecting economic, social and cultural rights (emphasis added).<sup>282</sup>*

In a similar vein, the Committee on Economic, Social and Cultural Rights, in several of its concluding observations, encouraged the state party,

as a member of international organizations, including international financial institutions such as the International Monetary Fund and the World Bank, to do all it can to ensure that the policies and decisions of those organizations are in conformity with the obligations of States Parties under the Covenant, in particular the obligations contained in articles 2.1, 11, 15, 22, 23 concerning international assistance and cooperation.<sup>283</sup>

The case illustrated above once again supports the claim that the World Bank is legally obliged to respect, protect and fulfil international human rights. Taken together, the three main arguments presented, including the IFI's 'Political Prohibition' Article, the World Bank-United Nations Relationship Agreement and the World Bank-ICESCR membership discussion, give enough evidence for most scholars to insist that the Bank does have international human rights obligations.<sup>284</sup>

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terms of their legal value, Hennessy notes that "while the Maastricht Guidelines have a strong persuasive value, they do not have the same weight as the general comments of the Committee on Economic, Social and Cultural Rights." Hennessy, "Defining States' International Legal Obligations to Cooperate for the Achievement of Human Development : One Aspect of Operationalising a Human Rights-Based Approach to Development," 80.

<sup>282</sup> Maastricht Guidelines, para. 19.

<sup>283</sup> UN Committee on Economic, Social and Cultural Rights. Concluding observations on the periodic report of Ireland, E/C.12/1/Add.77, para. 37.

<sup>284</sup> For other minor arguments put forward in regard to the World Bank's obligation to respect, protect and fulfil international human rights, see Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 76, 93. Türk, *The Realization of Economic, Social and Cultural Rights*, para. 53. Ziegler, *The Right to Food*, 17-18.

### 3.2 Introduction to SAPs

As previously mentioned, the World Bank is still being heavily criticised for employing SAPs in developing countries, thereby violating those people's CP and ESC rights. After informing the reader of the evolution of the doctrine of structural adjustment, the section will look at this issue more closely.

#### 3.2.1 Evolution of the Doctrine of Structural Adjustment

The 1980s debt crisis of the developing states was the principal development that led to the introduction of SAPs in those countries.<sup>285</sup> In general, a debt crisis occurs when indebted countries are short of sufficient funds to service the interest payments on their debt obligations. In August 1982, Mexico announced exactly that, the incapacity to repay the interest on its debt obligations and the international debt crisis began. The crisis quickly spread to other developing countries that were confronted with private creditor banks' decrease in their loan exposure.<sup>286</sup> Differing opinions exist concerning the causes of the international debt crisis. Without going into detail, it is safe to assume that a number of factors triggered this crisis, such as: "unexpected changes in the global economy, irresponsible behavior of the lenders, irresponsible behavior of the debtor countries, and dependence of the Third World countries on the advanced capitalist states."<sup>287</sup>

In the search for a solution to the debt crisis, in 1985 the then US Secretary of the Treasury, James Baker, introduced the doctrine of structural adjustment.<sup>288</sup> The policy was based on the belief that deep structural problems caused the developing countries' unrelenting trade and fiscal imbalances. To address these structural causes, structural reforms had to occur in those countries. Therefore, in order to receive financial assistance from IFIs such as the World Bank to fight the accumulated debt, the debtor countries had to agree to employ a range of strict economic and structural reforms.<sup>289</sup> While no SAP is the same in every state, certain characteristics are shared by all these programmes. Generally, it can be said that SAPs require a country to carry out the following policies: a shift from import-substitution to export-led growth; trade and financial

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<sup>285</sup> See Robert Gilpin and Jean Gilpin, *Global Political Economy: Understanding the International Economic Order* (Princeton: Princeton University Press, 2001), 313.

<sup>286</sup> See Cohn, *Global Political Economy: Theory and Practice*, 188-189.

<sup>287</sup> Cohn, *Global Political Economy: Theory and Practice*, 189.

<sup>288</sup> See Joan M. Nelson, "Introduction: The Politics of Economic Adjustment in Developing Nations," in *Economic Crisis and Policy Choice: The Politics of Adjustment in the Third World*, ed. Joan M. Nelson, 3-32 (Princeton: Princeton University Press, 1990), 7.

<sup>289</sup> See Gilpin, *Global Political Economy: Understanding the International Economic Order*, 314.

sector liberalisation; privatisation of state-owned enterprises; currency devaluation; price deregulation; abolishment of subsidies; reduction of the role of the state in the economy and the limitation of government spending.<sup>290</sup> The World Bank itself defines the policy of structural adjustment as follows: “reforms of policies and institutions covering micro-economic (such as taxes and tariffs), macroeconomic (fiscal policy) and institutional interventions ... designed to improve resource allocation, increase economic efficiency, expand growth potential and increase resilience to shocks.”<sup>291</sup> The doctrine of structural adjustment derived from a notion developed by John Williamson, which he introduced as the ‘Washington Consensus.’<sup>292</sup> According to Williamson, there was a shared understanding among officials in industrial economies and international institutions that for economic development to advance, a country had to commit itself to the doctrine of neoliberalism. This doctrine’s emphasis is on free markets, trade liberalisation and the reduced role for the state in the economy.<sup>293</sup>

Advocates of SAPs argued that if a debtor country embraced the doctrine of neoliberalism and the related policy of structural adjustment, rapid economic recovery and growth would occur in those states. The resulting wealth, it was hoped, would ‘trickle down’ to the poorer sections of society, and an improvement in social services would also follow.<sup>294</sup> As will be seen shortly, this theory did not deliver the promised results. On the contrary, many scholars point to the devastating effects SAPs have had on the economic and human rights situations in developing countries and, in particular, on the continent of Africa.<sup>295</sup> In fact, Theodore Cohn emphasises that “the decade of the 1980s, when more than two-thirds of African states were receiving World Bank and IMF SALs [SAPs], is generally considered to be a lost decade for Africa.”<sup>296</sup> Among the devastating effects experienced by Africa during this time were: stagnation of economic growth and industrial production; higher population growth than agricultural output; de-

<sup>290</sup> See Gilpin, *Global Political Economy: Understanding the International Economic Order*, 314. SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 2. Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 21. Türk 1991: para. 125.

<sup>291</sup> World Bank, “Structural Adjustment and Poverty: A Conceptual, Empirical and Policy Framework” (World Bank, 1990), 22, in Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 47.

<sup>292</sup> See John Williamson, “Democracy and the ‘Washington Consensus’,” *World Development* 21, no. 8 (1993): 1329-1336.

<sup>293</sup> See Williamson, “Democracy and the ‘Washington Consensus’,” 1329-1336. Gilpin, *Global Political Economy: Understanding the International Economic Order*, 315.

<sup>294</sup> See Ghazi, *The IMF, the World Bank Group and the Question of Human Rights*, 47.

<sup>295</sup> See Cohn, *Global Political Economy: Theory and Practice*, 397. Hennessy, “Defining States’ International Legal Obligations to Cooperate for the Achievement of Human Development : One Aspect of Operationalising a Human Rights-Based Approach to Development,” 94. Jochnick, “Confronting the Impunity of Non-State Actors: New Fields for the Promotion of Human Rights,” 69.

<sup>296</sup> Cohn, *Global Political Economy: Theory and Practice*, 397.

cline of per capita incomes and investment; and increase of unemployment.<sup>297</sup> In turn, a number of economic and social rights were jeopardised and violated such as, for example: the right to work; the right to food; the right to an adequate standard of living; the right to health; and the right to education.<sup>298</sup> As the Special Rapporteur, Reinaldo Figueredo, and the Independent Expert, Fantu Cheru, explain so vividly in a joint report to the UN Commission on Human Rights in 2000:

for almost 20 years, the international financial institutions and creditor Governments were engaged in the self-deceptive and destructive game of managing third world economies from afar and forcing unpopular economic policies down the throats of powerless third world countries in the belief that the bitter medicine of macroeconomic adjustment would ultimately put these countries on a path to prosperity and a debt-free existence. Two decades later, many countries are in worse condition than when they started implementing IMF/World Bank structural adjustment programmes. *The social and ecological costs of these harsh austerity programmes have been far-reaching, with many countries experiencing a dramatic decline in human development indices* (emphasis added).<sup>299</sup>

The above-mentioned direct and indirect references should give the reader an initial impression of the extremely negative effects of the World Bank's SAPs on developing countries' human rights situations.<sup>300</sup> Yet, a more detailed examination of this issue is required to identify the Bank's SAPs as the principal economic obstacle to implementing a human rights-based approach to development in general, and NEPAD in particular. The following analysis will focus primarily on one recent report published in 2004 by SAPRIN and the World Bank. In an attempt to critically assess the effects of the IFI's SAPs on developing countries, civil society networks from different states, developing country governments and the World Bank collaborated over five years and finally presented the SAPRI report.<sup>301</sup> According to their own judgement, "this book represents

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<sup>297</sup> See Cohn, *Global Political Economy: Theory and Practice*, 397-398.

<sup>298</sup> See Hennessy, "Defining States' International Legal Obligations to Cooperate for the Achievement of Human Development : One Aspect of Operationalising a Human Rights-Based Approach to Development," 94.

<sup>299</sup> UN Economic and Social Council. Cheru, Fantu and Reinaldo Figueredo, *Debt Relief and Social Investment: Linking the Heavily Indebted Poor Countries (HIPC) Initiative to the HIV/AIDS Epidemic in Africa, Post-Hurricane Mitch Reconstruction in Honduras and Nicaragua, and the Worst Forms of Child Labour Convention, 1999 (Convention No. 182) of the International Labour Organization*, 14 January 2000, E/CN.4/2000/51, para. 1.

<sup>300</sup> Nevertheless, it should be kept in mind that the World Bank's SAPs are not the only aspect responsible for human rights violations in developing countries. Other issues, such as corrupt African political leadership or certain African cultural practices could also be mentioned and analysed further. However, as indicated earlier, this thesis looks solely at the Bank's SAPs as a major economic impediment to implementing an RBA to NEPAD.

<sup>301</sup> The author is aware of the limitations of relying on only one source. To do so leads to the exclusion of all other sources and, therefore, to the segregation of important additional information. However, the source in question consists not only of one author but of NGOs, developing country governments and,

the most comprehensive, real-life assessment of the actual impacts of the liberalization, deregulation, privatization and austerity policies that constitute structural adjustment programmes.”<sup>302</sup>

### **3.3 The World Bank's SAPs as the Major Economic Obstacle to Implementing an RBA to NEPAD**

Special Rapporteur Türk, in 1991, listed a range of structural adjustment measures, which are responsible for the violation of ESC rights in developing countries. Among those are the following: “(a) devaluation of the local currency; (b) decrease of government expenditure on public services; (c) abolition of price controls; (d) imposition of wage controls; (e) reduction of trade and foreign exchange controls; (f) restrictions on domestic credit; (g) reduction of the role of the state in the economy; (h) increasing basis for the export community; (i) decreasing imports; and (j) privatization of heretofore public enterprises.”<sup>303</sup> The SAPRI report, in its own investigations, also discovers that these measures have had, and still have, a negative impact on developing countries' human rights. Among the topics examined were: trade liberalisation policies; financial sector liberalisation; labour market reform; privatisation; and agricultural sector reform.<sup>304</sup> Despite the importance of all these issues, the following analysis will focus on the last topic addressed in the SAPRI report, titled: “The Effects of Public Expenditure Policies on Education and Healthcare under Structural Adjustment.”<sup>305</sup> The latter aspect, in particular, has spurred much criticism among human rights advocates. This is so because cuts in government spending automatically lead to the removal of subsidies on education and health services, thus impacting negatively on peoples' rights to education and to health in developing countries.<sup>306</sup> While a total of seven countries took part in the SAPRI investigation, this analysis will concentrate on the results obtained in

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most significantly, of the World Bank itself. Therefore, it is argued that the SAPRI report analyses the problem adequately.

<sup>302</sup> SAPRI, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, intro.

<sup>303</sup> Türk, *The Realization of Economic, Social and Cultural Rights*, para. 85.

<sup>304</sup> See SAPRI, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, contents.

<sup>305</sup> See SAPRI, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, contents.

<sup>306</sup> See SAPRI, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 174. While this thesis will focus on the right to education and the right to health as explored in the SAPRI report, it has to be kept in mind that there are various other economic and social human rights that are violated when SAPs are employed. Decreases in government spending can also result in a violation of the right to work; the right to an adequate standard of living; and the right to be free from hunger.

the African states of Ghana, Uganda and Zimbabwe. In doing so, the study is directly linked to the topic of NEPAD.<sup>307</sup>

Before examples can be presented where the right to health and the right to education were violated in those countries, the exact content of the two rights has to be clarified. Both rights have their origin in the 1948 Universal Declaration of Human Rights where they are mentioned in Articles 25 and 26 respectively.<sup>308</sup> However, they did not become legally enforceable rights until the coming into force of the ICESCR in 1976. Article 12 of the Covenant covers the provisions on the right to health. This right is spelled out in full below:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (a) *The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;*
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) *The prevention, treatment and control of epidemic, endemic, occupational and other diseases;*
  - (d) *The creation of conditions which would assure to all medical service and medical attention in the event of sickness (emphasis added).*<sup>309</sup>

The right to education is listed as Article 13 of the ICESCR. Parts of Article 13 read as follows:

1. The States Parties to the present Covenant recognize 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. . . .
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right
  - (a) *Primary education shall be compulsory and available free to all;*
  - (b) *Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and*

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<sup>307</sup> Not only are Ghana, Uganda and Zimbabwe the African states that took part in the SAPRI study, moreover, all three countries are members of NEPAD and, thus, a part of the NEPAD framework. Although it is acknowledged that three countries do not fully represent Africa as a whole, it is argued that the studies undertaken in these countries provide a good overview on this particular matter.

<sup>308</sup> See Universal Declaration of Human Rights, Arts. 25 and 26.

<sup>309</sup> ICESCR, Art. 12.

*accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and *the material conditions of teaching staff shall be continuously improved* (emphasis added).<sup>310</sup>

Having established the legal backgrounds on the right to health and the right to education, how then did cuts in government spending lead to a violation of these two human rights? The decrease in government spending is achieved through the implementation of spending controls, cost-sharing schemes and revenue increases. In more detail, the following fiscal and monetary policies were employed: “(a) A ceiling on budget deficits; (b) A freeze on, or reduction in, spending levels; (c) The removal of subsidies; (d) A rationalization/streamlining of government bureaucracy; (e) An increase in certain types of taxes and/or introduction of new taxes; and (f) Currency devaluation.”<sup>311</sup> The implementation of these policies occurred at a time when the countries experienced economic decline and growing poverty and hence there existed a great need for well-functioning social services. From a human development perspective, SAPRIN points out, it would have been logical to offer alternatives to the decrease in government spending so that social spending would not have been negatively affected. However, the countries that are part of the SAPRI study did not have a choice.<sup>312</sup> As a result of the fiscal and monetary policies employed, Ghana, Uganda and Zimbabwe experienced a negative impact of reforms on access to, and quality of, education and health-care services. This, consequently, led to a violation of the human rights to health and education.

### *3.3.1 SAPs and the Violation of the Right to Health*

In terms of access to healthcare services in the three African countries studied, SAPRIN reports that the introduction of user fees under cost-recovery and revenue-generating schemes has led to severe restrictions in this respect. In Zimbabwe, in order to share the cost of services, the government set up user fees for healthcare benefits in 1991. In many cases, patients were confronted with enormous cost increases, at times exceeding the figure of 1,000 per cent. Similarly, in Ghana user fees were introduced at a time when workers experienced a constant decline in their wages, thus

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<sup>310</sup> ICESCR, Art. 13.

<sup>311</sup> SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 176.

<sup>312</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 177-178.

leaving them with even less money to spend on healthcare.<sup>313</sup> As a result of the establishment of user fees for healthcare services and, hence, a lack of financial resources to afford government healthcare, many families turned to self-medication and home care to nurse the sick. In the case of Ghana, it has been noted that due to the initiation of user fees, out-patient attendance decreased by about one third. In Uganda, the introduction of user fees resulted in the poor not having access to hospital care.<sup>314</sup> The participants of the Uganda country study noted that “those who cannot pay for critical healthcare simply die.”<sup>315</sup> Moreover, it has been found that many people do not seek medical care until their diseases have reached a critical status. As a consequence, people die of curable illnesses and/or spread them in their villages, which has led to a persistence of ailments such as bronchitis, pneumonia and tuberculosis.<sup>316</sup>

The situation illustrated above clearly goes against the provisions stated in Article 12 of the ICESCR. To begin with, Article 12(d) states that the right to health is only fully realised if conditions are created that guarantee everyone medical benefits and medical care when falling sick. The Covenant clearly asks states parties to take steps in this direction.<sup>317</sup> However, with the introduction of user fees, governments do exactly the opposite. They create conditions where a great number of the population, first and foremost the poor, are excluded from basic healthcare services, thereby violating the right to health as set out in the ICESCR. In addition to breaching Article 12(d), a violation of Article 12(c) can also be observed. As illustrated above, Article 12(c) of the ICESCR expects states parties to take steps to prevent, treat and control epidemic, endemic, occupational and other diseases.<sup>318</sup> Obviously, these steps were not taken in the countries studied. On the contrary, due to the establishment of user fees many people have not been able to afford healthcare services, thus dying of various diseases as well as spreading them in their communities. Consequently, there is an evident breach of Article 12(c) of the right to health.

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<sup>313</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 187-188.

<sup>314</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 187-189.

<sup>315</sup> SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 189.

<sup>316</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 187.

<sup>317</sup> See ICESCR, Art. 12(d).

<sup>318</sup> See ICESCR, Art. 12(c).

A clarification on the different levels of obligation is necessary at this point. The primary responsibility to respect, protect and fulfil human rights lies always with the state concerned in which the violation takes place, in this case Ghana, Uganda and Zimbabwe.<sup>319</sup> However, because it is the World Bank, which forces these countries to employ SAPs and thereby pressures them to reduce government spending in the areas of healthcare and education, they too, have human rights obligations. Subsequently, they too, can be held responsible for violations of human rights. Yet, Skogly expresses very well that discussing the human rights responsibilities of the Bank “does not imply a transfer of obligations, but rather an extension of the circle of actors with recognised human rights obligations.”<sup>320</sup> In this thesis, the focus is on the extension of the circle of actors concentrating, in particular, on the IFI of the World Bank. This approach should be kept in mind for the analysis offered above and the examination to follow.

Not only has the restriction on access to healthcare services led to the violation of the right to health, but the reduced quality of healthcare has also impacted negatively on the upholding of this right. Due to the cuts in government spending on healthcare, in Zimbabwe in the 1990s, a number of deteriorating conditions resulted in a decline in the quality of healthcare services. Among these were: “Reduced maintenance, delayed upgrades of deteriorating health facilities, shortages of equipment and essential drugs, and a high rate of staff attrition and loss to the private sector and abroad.”<sup>321</sup> SAPRIN reports a decrease in the quality of healthcare services of approximately 30 per cent in Zimbabwe in 1993 compared to the gains achieved in the country’s post-independence period. In more detail, the network has observed an increase in the “wasting and stunting” in children under five since the 1980s, as well as a proliferation of infant and child mortality rates. Finally, it was found that there had been a decrease in pre-natal services and in the coverage of immunisation.<sup>322</sup> However, Article 12(a) asks states parties to the ICESCR to take steps to support the diminution of infant mortality and the healthy development of children.<sup>323</sup> Once more, then, it can be witnessed that the African states are in breach of the right to health due to the fact that they are obliged to employ the various measures inherent in SAPs. As a consequence, the World Bank,

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<sup>319</sup> See Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 34.

<sup>320</sup> Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund*, 34.

<sup>321</sup> SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 192.

<sup>322</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 192.

<sup>323</sup> See ICESCR, Art. 12(a).

principal provider of SAPs, is also violating the right to health as stipulated in the ICESCR.

### *3.3.2 SAPs and the Violation of the Right to Education*

In the area of education, again, the establishment of user fees has resulted in serious constraints regarding the access to this service. The reintroduction of user fees in Zimbabwe in 1992 meant that once more money had to be paid to send children to primary and secondary school. With the reestablishment of these fees, both Zimbabwe and Ghana, experienced a dramatic increase in drop-out rates. Parents could no longer provide for the school fees; thus, the children were pulled out to support their families at home. According to the SAPRI report, the drop-out rate in Ghana was about 40 per cent.<sup>324</sup> As a consequence, the network declares, “user fees have led to increasing inequalities, both between and within communities, as the poor are left behind.”<sup>325</sup> Contrary to what has been explored above, Article 13 (a)(b) of the ICESCR states that in order to achieve the full realisation of the right to education, states recognise that primary education should be free for all and secondary education should progressively become free of charge.<sup>326</sup> Instead of providing for free education in primary and secondary schools, the governments of these countries have reintroduced user fees for education services so as to comply with the requirements set out in the World Bank’s SAPs. Consequently, a breach of Article 13(a)(b) of the International Covenant by the governments and the Bank can be confirmed.

In addition to restricted access to education services, the decrease in government spending in this area has led to a deteriorating quality of education. The following conditions worsened the quality of education services: “inadequate infrastructure and the lack of educational materials and supplies, as well as declining salaries and insufficient training for teachers.”<sup>327</sup> Compared with Article 13 of the ICESCR, it can be observed that Article 13(e) has not been adhered to by the governments and, hence, the World Bank. This article asks states parties to recognise that “the material conditions of teaching staff shall be continuously improved.”<sup>328</sup> Yet, there has been a lack of educa-

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<sup>324</sup> See SAPRI, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 183, 186.

<sup>325</sup> See SAPRI, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 186.

<sup>326</sup> See ICESCR, Art. 13(a)(b).

<sup>327</sup> SAPRI, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 190.

<sup>328</sup> See ICESCR, Art. 13(e).

tional materials and supplies. Consequently, it can be established once again that the governments and, therefore, the Bank find themselves in breach of the right to education.

The analysis presented above gives the reader a good idea of how the World Bank's SAPs, with the inherent request to decrease government spending for social services, has led to a violation of the rights to health and education in numerous ways. Overall, SAPRIN has observed that the introduction of these measures has resulted in an expansion and an intensification of poverty and increased social segregation.<sup>329</sup> The network's preoccupation with this topic over a five-year time frame has led it to conclude that "if there is to be any hope for meaningful development in the countries of the South and for the sustained reduction of poverty and inequality, the Western-inspired and imposed doctrines of structural adjustment and neoliberal economics must go."<sup>330</sup> Yet, SAPRIN also notices that the doctrine of structural adjustment continues to be employed as a precondition for lending offered by aid agencies such as the World Bank.<sup>331</sup>

However, it should again be acknowledged that the World Bank has started to react to the criticisms triggered by the deployment of SAPs. One of the most recent inventions to halt the negative impacts of these programmes is the utilisation by Third World governments of so-called poverty reduction strategy papers (PRSPs). According to this mechanism, developing countries have to provide national development plans in the form of PRSPs that focus on poverty reduction in order to receive loans from the Bank or other aid agencies. The aim is to increase developing states' participation in the drawing up of poverty reduction strategies, which has been completely lacking in regard to SAPs. Nonetheless, Frankovits as well as SAPRIN point out that the newly established PRSPs have undergone the same criticism as SAPs. Most significantly, and despite having claimed otherwise, PRSPs are devoid of extensive and meaningful participation.<sup>332</sup> Moreover, this newest version of a development and poverty reduction framework lacks any sign of accountability, on the side of the individual developing

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<sup>329</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 200.

<sup>330</sup> SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, intro.

<sup>331</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 4.

<sup>332</sup> Interviewee Killander does not share this opinion. He believes: "To treat SAPs and PRSPs as the same with regard to participation I don't think is justified. I think the PRSPs have come quite some way in addressing the problems of the SAPs of the 80's." Killander, interview carried out by email, 8 May, 2006.

governments but also on the side of the World Bank.<sup>333</sup> These facts lead Sengupta to declare that in many cases the basic ingredients of PRSPs appear to be traditional SAPs with little change.<sup>334</sup> “In short,” SAPRIN concludes, “the IMF, the World Bank and their most powerful board members still determine national economic frameworks, while the majority of populations, particularly the poor, as well as important economic sectors, continue to suffer the effects of these policies.”<sup>335</sup>

Having established why and how the World Bank’s SAPs violate international human rights standards and principles, it has yet not been explained how this issue relates to the RBA to development in general, and this approach to NEPAD in particular. The question needs to be addressed as to why exactly the Bank’s SAPs are the major economic impediment to implementing an RBA to NEPAD.

### 3.3.3 SAPs and the RBA to Development

To answer this question, it might first be helpful to remind the reader of the definition of the RBA. As explained in chapters 1 and 2, the approach incorporates the standards and principles of the international human rights system into the plans, policies and processes of development programming. In other words, development programming has to be carried out in such a way that it adheres to international human rights standards while at the same time does not ignore human rights principles such as participation, accountability or non-discrimination. However, as explored above neither SAPs nor the programme’s new version of PRSPs are based on human rights standards and principles. The sections on SAPs and the rights to health and education have shown that these adjustment programmes do not adhere to the human rights standards spelled out in the articles of the ICESCR. In addition, as mentioned earlier in this chapter, SAPs and PRSPs both fail to incorporate human rights principles such as participation or accountability. As Sengupta points out regarding the development frameworks of SAPs and PRSPs and their link to international human rights:

*The most obvious gap is the failure to draw concrete links between the development frameworks and human rights standards. In particular, the notion that the objectives of the right to development are to be treated as entitlements or rights that are legitimately claimed by individuals*

<sup>333</sup> See Frankovits, “Rules to Live by: The Human Rights Approach to Development,” 10. SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 4.

<sup>334</sup> See Sengupta 2002: 16.

<sup>335</sup> SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 4.

holds limited currency among donors such as IMF and World Bank. *While rights-based language is cautiously referred to in some official documents, the human rights approach to development is not treated as a core principle (emphasis added).*<sup>336</sup>

Consequently, because SAPs and PRSPs are not based on international human rights standards and principles, they do not fulfil the requirements of an RBA to development. It follows that an RBA to NEPAD cannot be implemented as long as the World Bank's SAPs and PRSPs fail to adhere to these standards and principles and, thus, lead to the violation of people's human rights in developing countries. However, this is still the case and there does not exist any evidence of significant change in the near future. As a result, it can be confirmed that the World Bank's application of SAPs and PRSPs in African countries constitutes a major obstacle to applying an RBA to NEPAD.

### 3.3.4 *The Two Levels of Responsibility: International Society and NEPAD*

Although the above analysis focuses primarily on the human rights obligations of the World Bank, there exists a second level of responsibility that needs to be explored. The first level of accountability rests with international society, as has been exemplified through the particular case of the Bank. The second level of responsibility lies with NEPAD. While international society, including IGOs such as the World Bank as well as governments, can be held accountable for having introduced and subsequently employed the doctrine of structural adjustment in developing countries, NEPAD holds responsibility for the continuous deployment of SAPs on its continent. The principal NEPAD document when discussing the impoverishment of the African state admits: "The structural adjustment programmes of the 1980s provided only a partial solution. They promoted reforms that tended to remove serious price distortions, but gave inadequate attention to the provision of social services. As a consequence, only a few countries managed to achieve sustainable higher growth under these programmes."<sup>337</sup>

However, despite NEPAD's criticism of SAPs and the realisation that these policies have mainly failed Africa, in another paragraph of the document, NEPAD affirms its future collaboration with IFIs, the main providers of these policies. It states: "The various partnerships between Africa and the industrialised countries on the one hand, and

<sup>336</sup> UN Economic and Social Council, Arjun Sengupta, *Fifth Report of the Independent Expert on the Right to Development* (Geneva, 18 September 2002), E/CN.4/2002/WG.18/6, para. 49.

<sup>337</sup> HSGIC, *The New Partnership for Africa's Development (NEPAD)*, para. 24.

multilateral institutions on the other, will be maintained.”<sup>338</sup> There are quite a few scholars who disapprove of NEPAD’s will to cooperate with the IFIs and, thus, its will to support the doctrine of neoliberalism.<sup>339</sup> As Gabriel emphasises: “Der Armutskomplex im Südlichen Afrika ist untrennbar mit den Problemen des Welthandels, der globalen Finanzen und Herrschaft verbunden. Wenn es in der Politik der Armutsbekämpfung nicht zu einer Transformation weg von den makroökonomischen Zielvorgaben à la IWF hin zu sozialökonomischen Zielvorgaben kommt, wird das Südliche Afrika immer weiter in die Armutsfalle sinken“ (Poverty in sub-Saharan Africa is inseparably linked to the problems of world trade, of global finances and global rule. If there is not going to be a transformation in the politics of fighting poverty away from the macroeconomic aims à la IMF to social-economic goals, sub-Saharan Africa will become increasingly impoverished)<sup>340</sup> (translation own). Although NEPAD is being heavily criticised for its cooperation with the IFIs, it does not change its neoliberal approach to development. Consequently, it is not just the World Bank that can be held accountable for violating African countries’ human rights through the employment of adjustment programmes. Equally important, because NEPAD supports the IFIs’ deployment of SAPs on the African continent, the development programme, as well, is responsible for human rights violations.

This chapter has confirmed the World Bank’s legal obligation towards international human rights. In addition, it has been established that the Bank’s SAPs form a principal economic impediment to implementing an RBA to NEPAD. The question necessarily arises as to what can be done to overcome this hindrance. Chapter 4 will investigate this query in more detail, thereby examining the feasibility of applying an RBA to NEPAD.

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<sup>338</sup> HSGIC, *The New Partnership for Africa’s Development (NEPAD)*, para. 187.

<sup>339</sup> See African Civil Society, “African Civil Society Declaration on NEPAD,” [http://www.ifg.org/wssd/acsnepad\\_decl.htm](http://www.ifg.org/wssd/acsnepad_decl.htm) (accessed March 18, 2006). Ansprenger, “Hoffen auf NEPAD? Die Lange Geschichte der Reformkonzepte für Afrika,” *Entwicklung und Zusammenarbeit* 44 (2003): 365. Gabriel, “Zivilgesellschaft und Armutsbekämpfung im Südlichen Afrika,” 20. Jacobbeit, “Erscheinungsformen und Ursachen der ökonomischen Misere,” 90-91. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa’s Development in the New Millennium; In Preparation for the G8 Summit*, 12.

<sup>340</sup> Gabriel, “Zivilgesellschaft und Armutsbekämpfung im Südlichen Afrika,” 20.

## Chapter 5

### 5. Conclusion

The last chapter commences by summarising the research conducted. The main arguments of the thesis are reiterated and, where necessary, the counter-arguments are repeated. Following this, the methodology employed is critiqued. General drawbacks and advantages of the methodology are highlighted; moreover, the linkage to the theoretical perspective of critical theory is restated. Thirdly, the conclusion offers an assessment of the theoretical framework applied in this thesis. An introduction to potential future research projects follows before the final section provides an outlook on the near future in this field of studies.

#### 5.1 Summary of the Research Conducted

This thesis assessed the World Bank's SAPs as the principle economic impediment to implementing an RBA to NEPAD. In doing so, the feasibility for applying this approach to Africa's development programme was evaluated. One of the main assumptions underlying this project is the belief that the RBA to development is the best approach currently available to pursue the cause of sustainable human, social and economic development in developing countries. Consequently, the literature on the RBA was the first aspect to be reviewed in chapter 2. Apart from the RBA's evolution and main components, this section covered the approach's advantages and drawbacks in detail. It was revealed that critics saw one of the main shortcomings in the fact that the RBA is not the solution to all development problems; major difficulties nevertheless remain.<sup>379</sup> However, while proponents of the approach agreed, they also pointed out that this was not the RBA's goal. Instead, the fundamental idea of this approach is that it provides a map and a toolbox for how to engage in development work in a human rights-friendly manner.<sup>380</sup> In terms of the RBA's advantages, the website of the UNHCHR outlines a great number of them. For example, the UNHCHR refers to such benefits as enhanced accountability; active, free and meaningful participation and empowerment.<sup>381</sup> To support these theoretical advantages, the last section introduced

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<sup>379</sup> See Sano, "Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development," 751. Hamm, "A Human Rights Approach to Development," 1012. Uvin, *Human Rights and Development*, 166.

<sup>380</sup> See Uvin, *Human Rights and Development*, 166. Frankovits, "Introduction," 5.

<sup>381</sup> See UNHCHR, "Rights-Based Approaches," <http://www.unhchr.ch/development/right.html> (accessed February 1, 2005).

a UNICEF case study in Peru where the RBA was successfully employed. The application of this approach significantly decreased Andean women's high maternal mortality rate in this country.<sup>382</sup>

The second issue reviewed in chapter 2 was the African development programme NEPAD. An overview of NEPAD and its base document was followed by general criticisms concerning this programme. Yet, the main part of this section was dedicated to exploring NEPAD's lack of an RBA to development. To create a foundation for discussion, in the beginning it was highlighted that there exist a range of legal obligations for NEPAD to acknowledge and comply with the international human rights framework. These include, among others, international human rights conventions such as the ICESCR and the ICCPR, as well as the African Charter on Human and Peoples' Rights.<sup>383</sup> However, despite these legal responsibilities, the African development programme fails to include human rights language in its base document.<sup>384</sup> In a number of examples it was revealed that NEPAD lacks the standards and principles that constitute the RBA to development. For instance, it was explained that the programme falls far short of adhering to the human rights principle of public participation. African civil society was not consulted during the formulation phase of NEPAD, which left the development programme with the accusation of following a top-down approach.<sup>385</sup> Moreover, the critical issue of the HIV/AIDS epidemic was only poorly discussed and it barely received any attention on the NEPAD agenda.<sup>386</sup> Finally, the aspect of gender inequality underwent a similar fate within the programme. A comprehensive gender

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<sup>382</sup> See UNICEF, *A Review of a UNICEF Country Programme Based on Human Rights: The Case of Peru*. O'Neill, *An Introduction to the Concept of Rights-Based Approach to Development: A Paper for InterAction*, 5.

<sup>383</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 15. AHSG, *Declaration on Democracy, Political, Economic and Corporate Governance*, 2-3.

<sup>384</sup> See African Civil Society, "African Civil Society Declaration on NEPAD," [http://www.ifg.org/wssd/acsnepad\\_decl.htm](http://www.ifg.org/wssd/acsnepad_decl.htm) (accessed March 18, 2006). CCIC, *The New Partnership for Africa's Development (NEPAD): A Commentary*, 4. Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1002. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 5. Sengupta, *Fourth Report of the Independent Expert on the Right to Development*, 11.

<sup>385</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 12. Hayman, "Wooing the West or Championing Africa? NEPAD's Vision for African Integration," 12-13. Herbert, "The African Union and Nepad in 2002," 252. Labonte *et al.*, *Fatal Indifference: The G8, Africa and Global Health*, 140. Onyekpere, "Perspectives on the New Partnership for Africa's Development," 6-7.

<sup>386</sup> See Fourie and Vickers, "African Economic Pragmatism, NEPAD and Policy Prostitution," 14. Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1017. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 9.

analysis was absent for a long time.<sup>387</sup> These indifferences were observed despite the fact that HIV/AIDS as well as women's rights are both directly linked to the enormous problems of conflict, poverty and marginalisation in Africa. Again, these rather theoretical listings were complemented by a case study. It was exposed how NEPAD failed to adhere to the RBA to development during the Zimbabwean elections in 2001. President Mugabe's leading political party refused to respect the global standards of democracy by holding illegitimate elections. Despite the obviousness of this offence, the South African and the Nigerian delegation declared the elections as fair, open and free.<sup>388</sup> Both, South Africa and Nigeria, are among the five countries which drafted NEPAD in 2001. In an attempt to provide the reader with an inclusive analysis, it was acknowledged that improvements had been achieved since the inauguration of the African development programme. Not only has NEPAD made HIV/AIDS a principal issue in all its programmes, it has established a gender unit to address women's rights in all their aspects.<sup>389</sup> Nevertheless, the second chapter ended on the note that human rights language remains mainly absent on the NEPAD agenda. Consequently, it was declared that the African programme continues to lack an RBA to development.

What then, are the reasons for NEPAD being short of such a development approach? Chapter 3 identified the World Bank's SAPs as the major economic obstacle to implementing an RBA to NEPAD. In a preliminary step, the IFI's international legal obligations towards human rights were discussed. In doing so, the section examined the Bank's 'Political Prohibition' Article, the World Bank-United Nations Relationship Agreement and the World Bank-ICESCR membership debate. It was proven that the IFI is legally obliged to respect, protect and fulfil international human rights. In a second move, SAPs, as employed by the Bank, were introduced. It was highlighted that the employment of SAPs has led to the violation of CP as well as ESC rights in developing countries.<sup>390</sup> This study focused on a particular report developed in collaboration with the World Bank and SAPRIN to describe the experienced infringements. The

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<sup>387</sup> See FIDH, *A Human Rights Approach to the New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)*, 98. Manby, "The African Union, NEPAD, and Human Rights: The Missing Agenda," 1004-1005. Rights and Democracy, *Human Rights and Democratic Development in Africa: Policy Considerations for Africa's Development in the New Millennium; In Preparation for the G8 Summit*, 8.

<sup>388</sup> See Taylor, "Commentary: The New Partnership for Africa's Development and the Zimbabwe Elections: Implications and Prospects for the Future," 403-407. Onyekpere, "Perspectives on the New Partnership for Africa's Development," 21.

<sup>389</sup> See Annan, *In Larger Freedom: Towards Development, Security and Human Rights for All*, 6-7, 12.

<sup>390</sup> See Hennessy, "Defining States' International Legal Obligations to Cooperate for the Achievement of Human Development : One Aspect of Operationalising a Human Rights-Based Approach to Development," 94.

publication revealed that cuts in government spending as requested in SAPs have led to the violation of the rights to health and to education.<sup>391</sup> Consequently, it was argued that the World Bank, as the principal provider of SAPs, is responsible for these abuses. Although the IFI has begun to incorporate human rights into its work, major problems persist to this day. In a last step, it was explained how exactly the Bank's SAPs are the main impediment to implementing an RBA to NEPAD: these adjustment programmes are not founded on international human rights standards and principles. Therefore, they do not adhere to the guidelines of the RBA to development. However, because the World Bank employs SAPs, the rights approach cannot be applied to NEPAD. As a result, the IFI's programmes constitute a major obstacle to this implementation.

The fourth chapter assessed the feasibility for overcoming this impediment. A first assessment outlined the actions required by the World Bank to change the current situation. These actions suggested by SAPRIN included the elimination of cuts in government spending as well as budget increases in healthcare and education.<sup>392</sup> Yet, it was shown that the Bank has not carried out the network's recommendations. Instead, the World Bank has continued the employment of human rights-devoid SAPs up to this day.<sup>393</sup> Consequently, the likelihood for implementing an RBA to NEPAD was deemed unrealistic. In a second assessment, Held's regime of liberal international sovereignty was applied to this case. This regime has only a limited impact on the economic sphere in international relations. In turn, this indicates that there are no systematic means to curtail sources of economic power, such as the World Bank.<sup>394</sup> Thus, it was argued that not the IFI's SAPs but the regime is the principal obstacle to successfully applying an RBA to NEPAD. Held's framework can be used to identify the principal underlying obstacle to overcoming the first impediment. With these two hindrances in existence, implementing an RBA to NEPAD appears even more unrealistic. Nevertheless, the fourth chapter also introduced Held's solutions of how to address the economic disparities associated with the regime of liberal international sovereignty. The scholar believes in the politics of global social democracy;<sup>395</sup> therefore, his social democratic agenda for economic globalisation and global

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<sup>391</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 174.

<sup>392</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 202.

<sup>393</sup> See SAPRIN, *Structural Adjustment: The SAPRI Report; The Policy Roots of Economic Crisis, Poverty and Inequality*, 224-225.

<sup>394</sup> See Held, "Law of States, Law of Peoples: Three Models of Sovereignty," 1, 22. Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, 143.

<sup>395</sup> See Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, 163.

economic governance was presented. Among other suggestions, Held recommends an international review of the performance of the IFIs, which were created more than 50 years ago.<sup>396</sup> Despite the desperate need for such a re-examination, it was affirmed that his recommendations are insufficient and underspecified. In particular, Slaughter and Hale formulated this point. They state that while thinkers like Held have progressed immensely in the theoretical conceptualisation of the world's challenges, practical policies to tackle them are still largely missing. What is needed is the discovery of innovative and realistic policies and techniques to practically address these problems.<sup>397</sup> This seems to be the principal challenge before us. Once this challenge has been mastered, the solutions to some of the world's most pressing problems may be within reach. This also applies to the underlying impediment to implementing an RBA to NEPAD. It, then, has a chance to be addressed successfully, thereby turning the feasibility of implementation into reality. As a consequence, Africa might witness progress regarding its own sustainable human, social and economic development and the world may experience increased peace and security.

## **5.2 Drawbacks and Advantages of the Methodology Employed**

Choosing a qualitative approach to research automatically brings with it certain drawbacks and advantages. However, there still exist a large number of political scientists, mainly positivists, who generally question the importance of qualitative methods. As Fiona Devine remarks: "They doubt the value of qualitative techniques and the need to be reflexive about issues of method in the discipline."<sup>398</sup> What exactly is it about qualitative research that they criticise? Three broad issues of critique, among others, are mentioned below: objectivity, interpretation, and generalisability.<sup>399</sup> In terms of the first two aspects, qualitative research is often criticised for its lack of objectivity due to interpretation. Quantitative researchers are of the opinion that there has to be distance and objectivity regarding the material studied – be it people, documents or activities. They see themselves as unbiased, discreet observers who comment only on what can be monitored. Hence, they do not believe in the usefulness of interpretation.<sup>400</sup> In regard to generalisability, qualitative research is often dismissed

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<sup>396</sup> See Held, *Global Covenant: The Social Democratic Alternative to the Washington Consensus*, 68. Held, "Globalization: The Dangers and the Answers," 32.

<sup>397</sup> See Slaughter and Hale, "A Covenant to Make Global Governance Work," 126-128.

<sup>398</sup> Fiona Devine, "Qualitative Methods," in *Theory and Methods in Political Science*, eds. David Marsh and Gerry Stoker, 197-215 (New York: Palgrave MacMillan, 2002), 197.

<sup>399</sup> See Devine, "Qualitative Methods," 205-207.

<sup>400</sup> See David E. McNabb, *Research Methods for Political Science: Quantitative and Qualitative Methods* (Armonk: M.E.Sharpe, 2004), 342.

due to its lack thereof. Quantitative researchers argue that because qualitative research focuses on particular settings, documents or people, a study's findings cannot be generalised – one of the goals of quantitative research.<sup>401</sup>

While these criticisms are acknowledged by the author, it has to be stated that they approach the topic from an incorrect angle. As Devine expresses so well: "What is a valid method depends on the aims and objectives of a research project."<sup>402</sup> Consequently, since the goal was not to be objective, to confine oneself to observation and to generalise, these theoretical drawbacks do not apply to the methodology chosen. The aim was to critically analyse and interpret the documents and interviews, the methodology based on the theoretical perspective of critical theory. This process provided a useful account of people's and organisations' experiences, opinions, beliefs and values regarding the implementation of an RBA to NEPAD.

Nevertheless, in regard to the interview carried out by email, a few 'real' disadvantages were observed. Firstly, while it was anticipated to interview NEPAD officials, this, unfortunately, did not occur. The staff failed to respond to the inquiries sent to them. As a result, the thesis lacks important information from one of its fundamental sources. It is very likely that opinions by NEPAD officials would have provided valuable additional, maybe even deviating insights into the topic studied. Secondly, the interview undertaken lacked flexibility. Sending questions via email takes away the possibility of reframing questions, of expanding on certain issues and of verifying what has been said. Therefore, at times, the returned responses were deficient in detail and focus. Yet, this did not detract from the general advantage of the methodology of interviewing. The author was able to secure unique information otherwise unobtainable. For example, some of the views expressed in the interview had not been mentioned in the documents analysed earlier. Thus, they represented a significant addition to the research conducted. Moreover, it was possible to ask the professional the research question directly, thereby obtaining exclusive answers not existing in the literature. Finally, the scholar's first-hand experience in the subject added a very valuable practical perspective to the matter investigated. Similarly, the methodology of document analysis had a number of advantages: to begin with, the various documents sighted were accessible at all times, thereby adding to research convenience and

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<sup>401</sup> See Devine, "Qualitative Methods," 207.

<sup>402</sup> Devine, "Qualitative Methods," 205.

effectiveness. Also, documents such as reports, book chapters and articles represented “data that are thoughtful, in that participants [authors] have given attention to compiling.”<sup>403</sup> Hence, their analysis and interpretation was more straightforward than it would have been with other sources. Finally, through the collection of numerous documents, the research carried out was approached from all perspectives, thus avoiding a selective and incomplete interpretation of the subject. However, it is acknowledged that there are problems associated with relying heavily on only one report – the SAPRI report. Above all, depending on one source leads to the exclusion of all other sources and, therefore, to the elimination of important additional information. Yet, it needs to be kept in mind that the source in question consists not only of one author but of NGOs, developing country governments and, most significantly, of the World Bank itself. Therefore, it is argued that the SAPRI report analyses the problem adequately. Taken together, the methodology chosen greatly contributed to successfully applying the theoretical perspective of critical theory to this dissertation.

### ***5.3 Assessment of the Theoretical Framework Employed***

Despite containing a weakness, Held’s theoretical framework of competing conceptions of sovereignty matched the thesis excellently. The only drawback encountered relates to the fact that global social democracy, the scholar’s solution for overcoming the problems associated with the regime of liberal international sovereignty, is flawed. The author completely agrees with Slaughter and Hale that Held’s recommendations regarding a social democratic agenda for economic globalisation and global economic governance lack innovative and realistic governance techniques. While theoretically his suggestions are very advanced and at the forefront of global governance debates, practically they are often insufficient, underspecified or politically unrealistic. Thus, this weakness represents an actual limitation to Held’s overall framework. Nevertheless, this flaw does not undermine his approach as such. It is believed that Held’s conceptualisation of liberal international sovereignty gives a factual account of the enormous force of economic power in international relations. Moreover, the author shares Held’s opinion that systematic means to address the sources of economic might do not exist. Therefore, the application of his framework to this thesis is very appropriate. If Held’s theoretical conceptualisations were more realistic and innovative,

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<sup>403</sup> John W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*. 2nd ed. London: SAGE Publications, 2003.

his framework would be ideal for successfully addressing today's international challenges of globalisation. However, at present this itself seems to be a key challenge requiring further study.

#### **5.4 Potential Future Research Projects**

Due to the specificity of this thesis, a number of potential future research projects can be derived from this dissertation. The thesis has examined just one of the principal economic impediments to implementing an RBA to NEPAD. However, apart from the World Bank's SAPs, there exist other economic obstacles that could be studied. To begin with, it should be kept in mind that the Bank is not the only provider of SAPs. The IMF as well as individual governments also employ SAPs in developing countries. Therefore, one could investigate their roles in more detail in comparison with the politics of the World Bank. Other aspects worthwhile examining are, for example, the matter of official development assistance (ODA) and international trade issues. Whereas the ODA provided by industrialised states still falls far short of what has been officially agreed upon,<sup>404</sup> the international terms of trade continue to favour the developed countries.<sup>405</sup> It can be argued that, like SAPs, both these aspects block the integration of an RBA to NEPAD. How exactly they do so would be worthwhile investigating to receive a complete picture of the existing economic hindrances. Moreover, impediments including political, cultural, law-related and technical obstacles can also have a negative influence on this implementation. For instance, African political leadership has been a huge problem in many African states in the past, and it remains one in some African countries today. NEPAD itself agrees that weak African states and their economies "were aggravated by poor leadership, corruption and bad governance in many countries."<sup>406</sup> Poor leadership, corruption and bad governance are closely related to the violation of human rights in development, which in turn signals the non-adherence to an RBA. Therefore, the feasibility of the application of an RBA to NEPAD can be further assessed by analysing this principal political impediment. Additional obstacles could be mentioned; however, it should be clear by now that only the examination of all hindrances would offer a comprehensive assessment of the likelihood of implementing an RBA to NEPAD. Future research projects could focus on this extensive investigation.

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<sup>404</sup> See Cohn, *Global Political Economy: Theory and Practice*, 405.

<sup>405</sup> See UN General Assembly, Kofi Annan, *New Partnership for Africa's Development: Third Consolidated Report on Progress in Implementation and International Support*, 1 August 2005, A/60/178, 16.

<sup>406</sup> NEPAD, *The New Partnership for Africa's Development (NEPAD)*, para. 22.

In addition to the inspection of these impediments, it is of great significance to explore the problems that currently block the successful functioning of the regime of liberal international sovereignty. The focus here is on the lack of discovery of innovative and realistic policies and techniques, which could resolve the world's challenges. For example, there do not exist inventive and realistic procedures that indicate how to address Held's recommendation of an international review of the functioning of IFIs. Yet, in this case a theoretical notion is insufficient without its practical counterpart. Only the actual discovery of such procedures would help to put into practice a re-examination of the Bretton Woods system, thereby attending to one of the world's contemporary crises. Again, future research projects could concentrate on this issue, attempting to locate innovative and realistic policies and techniques to tackle universal challenges.

### ***5.5 Outlook on the Near Future***

The conclusion of this thesis has been that major economic impediments exist, which keep NEPAD from implementing an RBA. Unless these and other obstacles are addressed, both by the African development programme and international society, an RBA will not be integrated. However, because the preceding research has shown that progress in this area is rather slow, implementation appears unrealistic at this point. Therefore, it is anticipated that the African population and, specifically, the poor and insecure, will continue to suffer from human rights violations due to the employment of SAPs. In particular, Africans face various infringements on the rights to health and education. Moreover, sustainable human, social and economic development in Africa remains jeopardised, thus postponing peace and security in the region and beyond. Nevertheless, the RBA movement is not motionless. On the contrary, it is vibrant and growing. More and more scholars and professionals point to the diverse advantages of the RBA and they support its utilisation. In addition, initial practical experiences underscore its effectiveness. Increasingly, industrialised countries incorporate this approach into their development work. As a result, the RBA movement could become a strong counterforce, which slowly undermines the impediments currently in place.

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