**Opening the black box: socio-economic rights and the question of political will**

Pádraig McAuliffe

School of Law and Social Justice, University of Liverpool, Liverpool, United Kingdom

p.g.mcauliffe@liverpool.ac.uk

**Abstract**

In a world characterised by vast wealth, technological development and strong polities, the widespread failure to respect, protect and fulfil socio-economic rights (ESR) will seem to many a matter of choice. It is no surprise, therefore, that the essentially voluntaristic, protean language of political will is drawn on as an explanation for how such rights are realised or go unmet. Few would doubt that the fulfilment of the duties of states contained in the ICESCR depends critically on the commitment of domestic leaders, national executives and bureaucracies. However, in the literature on ESR, the concept of political will has never advanced beyond the status of a synonym for those factors at the intersection of the psychological and the institutional that create a reform space. A widely-shared acceptance that theory in this area lacks awareness of political processes that determine the success or failure of rights-based projects has resulted in a somewhat diaphanous promotion of ESR that has dishearteningly little to say about the very political will advocates identify as central to (non)realisation. This article posits political economy analysis in development literature as one place where human rights scholars and policy-makers might look for a better understanding of the concept.

**Keywords:** socio-economic rights, political will, development, indivisibility, political economy, Global South

**Introduction**

Socio-economic rights (ESR) imply responsibility on the part of state authorities to respect, protect and fulfil these indispensable entitlements. These rights have been developed doctrinally and advocated for vociferously since the coming into effect of the International Covenant on Economic, Social and Cultural Rights (ICESCR),[[1]](#footnote-1) and in particular since the founding of the Committee on Economic, Social and Cultural Rights (CESCR) in the 1980s. However, progress in terms of conceptual clarity and justiciability ‘has not been matched in the arena of politics and public policy.’[[2]](#footnote-2) In too many states and in too many sectors, ESR remain paper rights, their potential to guarantee welfare or alleviate suffering unrealised.

It used to be argued that the lack of recognition of ESR as full rights was a primary factor impeding their realisation. However, this argument is less tenable nowadays given that the justiciability and indivisibility of ESR are widely accepted.[[3]](#footnote-3) Few states argue they are not legal rights, very few protest against General Comments, and state dialogues with the Committee indicate ‘that states have been generally cooperative with the concretisation project.’[[4]](#footnote-4) Nevertheless, an apparent parity of esteem vis-à-vis civil-political rights, increased constitutionalisation, and adjudication of ESR in courts have not proven silver bullets. In particular, problems of justiciability—costs, delays, the restricted nature of judgement in the form of negatively framed prohibitions, middle-class bias, the small quantity of successful litigations—reveal the limitations of judicial and quasi-judicial procedures. What’s more, the enforcement of judicial decisions requires complex measures of implementation that governments have heretofore resisted, requiring funds that governments resent spending, on behalf of marginalised groups that the state lacks interest in.[[5]](#footnote-5)

Welcome doctrinal innovation in ESR has therefore laid bare a truth that was half-hidden in the battle over their status, namely that implementation of CESCR recommendations and judicial decisions are essentially political matters, where the structures and institutions of power conflict, co-operate and negotiate over the use of society’s resources.[[6]](#footnote-6) In short, the legalistic focus of ESR must be complemented by a renewed attention to politics in the struggle for realisation—as Freeman points out, human rights law ‘is made by a political process, and political processes determine the success or failure of its implementation.’[[7]](#footnote-7)

It is, of course, a truism to state that politics matter for ESR realisation. Human rights questions are political questions, demanding answers about how society is structured, how resources are allocated, how priorities are ranked. Rights discourse is a form of politics and it organises the state’s political space.[[8]](#footnote-8) What is interesting is how these political questions are generally framed as matters of *commitment* and *will.* There is nothing surprising in this. In a world where international human rights law lacks the authority to compel compliance with norms, states see it as their prerogative to decide whether or not to follow international human rights law or to abide by decisions of international bodies.[[9]](#footnote-9)

We still know little about how international socio-economic rights are internalised and under what conditions these norms influence state policy. General theories in which instrumental ratification leads to change in the moral consciousness of political leaders and then to institutionalisation are conspicuous by their non-applicability in relation to socio-economic rights.[[10]](#footnote-10) The same might be said for theories of acculturation, where interaction between states, as opposed to persuasion, serves to cognitively pressure state actors to conform with the ICESCR.[[11]](#footnote-11) Naming and shaming-based theories of change premised on leveraging human rights values to pressure states to change their behaviour are increasingly seen to have failed.[[12]](#footnote-12)

What explains non-compliance? Often, it stems not from an explicit political imperative to break a rule, but because other priorities and constraints are instead preferred.[[13]](#footnote-13) Nevertheless, as Saiz points out, political decision-makers in most states remain wilfully oblivious to ESR duties and choose to reject them in policy-making as irrelevant to quotidian governance.[[14]](#footnote-14) Because of the evident relevance of preference and choice (suggesting, of course, that things could be otherwise), one concept recurs in explaining (non)realisation of ESR, namely *political will*. Surpassing other factors like resources or capacity, it has emerged as the dominant explanation for the gap between the theory of human rights and the practice. Müller, for example, argues that the effective implementation and enforcement of ESR requires ‘*political will* on the part of government and political, economic and cultural elites’ (emphasis added).[[15]](#footnote-15) All forms of rights struggle depend on ‘mobilizing political will to transform the power structures that are the source of abuse or neglect.’[[16]](#footnote-16) The faith in violations-based approaches to ESR, therefore, presupposes that the state is actually in a position to progressively realise ESR and that the lack thereof must be produced by lack of political will.[[17]](#footnote-17) Amnesty International argues that ‘deprivation of rights cannot be blamed on lack of resources alone – invariably it results from lack of political will.’[[18]](#footnote-18) Modern states ‘have often lacked the capacity or political wil*l* to provide the full range of inclusion or enforcement of citizenship rights.’[[19]](#footnote-19) In Guatemala, for example, the underperformance in providing basic essential levels of ESR ‘is due, in large part, to the lack of political will of successive governments to invest in these rights.’[[20]](#footnote-20) UN human rights experts attribute the failure of poverty reduction policies to this factor: ‘the only reason why such programmes have not been adopted is that countries have shown no political will to adopt them.’[[21]](#footnote-21) Lack of ‘political will for implementation’ among development actors blights human-rights based approaches to healthcare.[[22]](#footnote-22) The neglect of chronic hunger ‘is often attributed to lack of “political will.”’[[23]](#footnote-23)

The question of political commitment also permeates ostensibly positive doctrinal developments. Meta-obligations like the obligations to mobilise resources, to eschew deliberately retrogressive measures, to monitor realisation of ESR and to devise action plans are unthinkable without government commitment. Indeed, the key emerging limitation of justiciability is that it ‘cannot impose *political will* that is fundamental’ to realising ESR.[[24]](#footnote-24) Likewise, the language of indivisibility, while welcome, ‘forc[es] us in a sense to invent a history (the unnatural division of rights into separate categories) that somehow will make it easier to make things rights—if only we had the *political will*.’[[25]](#footnote-25) Even where political will is not explicitly invoked, synonyms for it are found. Beetham, for example, speaks of ‘a weakly developed sense of public interest’ as underpinning ESR deprivation, and identifies the need for human rights to serve as a ‘persuasive political discourse’ in response.[[26]](#footnote-26) Budget decisions on health, education, welfare and housing rights ‘express political choices.’[[27]](#footnote-27) Austerity, of any stripe, reflects ‘the conscious choice’ of governments.[[28]](#footnote-28) Excess mortality from pregnancy-related causes is not inevitable or natural, but is in fact ‘a product of social priorities and policy decisions.’[[29]](#footnote-29) The limited scope and ineffective implementation of South Africa’s Zero Hunger programme, for example, owed primarily to ‘inadequate political support as a policy priority.’[[30]](#footnote-30)

Given the centrality of political will on the part of executive, legislatures and bureaucracies to ESR realisation, two questions emerge implicitly and explicitly. The first is why is there no political will in the first place? [[31]](#footnote-31) The second is how can political will and commitment be fostered?[[32]](#footnote-32) Surprising as it may be, the existing literature seldom addresses political will beyond the rhetorical, let alone attempts to answer these questions. While most scholars accept that political will plays a decisive role in determining how ESR objectives are formulated and implemented, no generalisable arguments have been developed to explain when domestic policy-makers are more or less likely to manifest commitment. The meaning of political will is simply taken for granted, presumed so obvious as to obviate elaboration. However, if it is to go beyond a hollow commonplace of rights critique to serve an analytical purpose in illuminating aspects of the ESR policy process like the framing of issues, the setting of agendas and persuasion, the concept needs more elucidation than this.

It would seem clear that if policy-makers have the political will to realise a given socio-economic right then this is (i) a primordial, deontological objective reflecting absolute acceptance of the imperative normativity of that right, and/or (ii) the outcome of some confluence of interests in which this right is instrumental, a necessary compromise, or a trade-off. However, how deontological and instrumental motives constitute political will in response to internal and external pressures for compliance with the Covenant remains unexplored. ESR theory seldom goes beyond a focus on conflicts of interest between the poor and non-poor, and the need to somehow overcome the resistance of privileged and/or conservative elites if governments are to be more committed to ESR. Notwithstanding its prevalence as an explanatory factor for the (non)realisation of rights, no study has investigated this factor in relation to ESR specifically.[[33]](#footnote-33) The lack of theory on political will is symptomatic of a broader problem in ESR theory, namely a lack of attention to the motivations of state duty-bearers to integrate human rights standards into policy (as the editors of one volume put it, ‘the agency and role of state actors are largely a *terra incognita*’ in all human rights theory).[[34]](#footnote-34) An exploration of political will might not only rectify this, but would also complement the recent turn in ESR theory from judicialisation to implementation, with its attendant demand for ‘more research that examines how governments act to realise and implement human rights,’ and above all how ‘government champions’ for rights realisation emerge and how they might be identified and fostered.[[35]](#footnote-35) Only by understanding political will can political commitment be built, or the lack thereof rectified.

The rest of this article explores the necessity, difficulty and opportunities for researching the vexed question of political will as it applies to ESR. The first part outlines how scholars in other fields have defined and delimited political will. It then explores why understanding political will is propitious for comprehending a state’s potential for rights realisation. The second part explores three areas of ESR theory where political will is front-and-centre but critically under-elaborated, namely (i) policy formulation at executive level, (ii) implementation at bureaucratic level and (iii) failures to respect, protect and fulfil. The third part explores why the normative and technocratic nature of ESR theorisation has proven under-equipped to discuss the formation of political commitment. To fill the resulting gap, it argues that the similarities between ESR and development, as well as the conjunction between the two practices, reveal political economy analysis (PEA) in development studies to be a pragmatic first step for theorists of rights to plumb the mysteries of political will.

**Grappling with political will**

Political will is a notoriously amorphous concept, ‘the slipperiest concept in the policy lexicon.’[[36]](#footnote-36) It is widely recognised as indispensable to policy-making, but difficult to identify and measure, employed most frequently in those failures of governance, programme or administration where its absence is apparent.[[37]](#footnote-37) Post et al’s definition of the concept is one that has attracted some assent and is adopted here, wherein a ‘sufficient set of decision makers, with a common understanding of a particular problem on the formal agenda, is committed to supporting a commonly perceived, potentially effective solution.’[[38]](#footnote-38) What the idea connotes is a credible undertaking on the part of key political decision-makers and the institutions they preside over to achieve a set of objectives (in rights terms, for example, the right to water or education) and to sustain the cost of the resulting actions over time.[[39]](#footnote-39) It should not be interpreted purely as an interest-based approach to decision-making. Realism cannot explain all policy-making. Familiar social constructivist perspectives in human rights highlight the importance of discourse and social norms in shaping state practice via negotiation, interpretation, and contestation over the ends and ideals that a good society should seek to promote. Principled and ideological commitments, for which the international framework of human rights might provide guidance, will always be at play in shaping political will.

In a rights context, political will implies internal affirmation or change in the political consciousness of leaders to invest resources (time, money, reputation) to achieve specific objectives.[[40]](#footnote-40) Perhaps more importantly, however, it is manifest externally in terms of initiation (explicit statements to put a right on the agenda), assessment (data gathering, consultation, assessment of legal obligations), mobilisation (marshalling state and non-state actors to support and objective), allocation (targeting of resources to a given end) and enforcement (communication, monitoring, warnings, penalties).[[41]](#footnote-41) These external manifestations must be shared by a sufficiently large number of decision-makers to achieve efficacy. A better understanding of political will does not mean it can be assessed scientifically. Whether is it present or not can only be assessed retrospectively, ‘with a failure to implement change purportedly manifesting a lack of political will and successful implementation constituting proof of its existence.’[[42]](#footnote-42) Impressionistic as such an assessment must be, these aspects must have been prevalent to a significant degree in, to take three random but lauded examples, ESR-realising initiatives like Brazil’s Unified Health System (a comprehensive national healthcare system that aims to provide universal access to healthcare services), Finland’s Housing First model (prioritising permanent housing for individuals experiencing homelessness with supplementary support services to address underlying issues such as mental health or substance abuse) or Ghana’s Free Compulsory Universal Basic Education program (which increased primary school enrolment rates and improved access to education across the country).

One obvious problem with a paramount focus on this type of understanding of political will is that it brackets out too many things that are indispensable to realising ESR. Domestic political leaders have choice, but these choices are limited by other factors like structures, resources and capabilities, as well as external influence. Structural features of the economy and society significantly constrain the ability of even the most determined decision-makers to embark on necessary reforms, particularly where they challenge the privileges of existing elites. Political will can only take a government so far if the goals set out require a threshold level of bureaucratic or administrative ability which does not exist—as Borzel and Risse observe, in weak states, lack of capacity may overshadow lack of willingness as an explanation for lack of compliance with human rights norms.[[43]](#footnote-43) Decisions about ESR are often made in the context of severe resource constraints, even if they are not absolute or immovable.[[44]](#footnote-44) External factors can also significantly restrict the prospects for ESR realisation independently of political will—the requirements of multilateral institutions is an obvious limitation, while in the Global South donors, transnational corporations and international financial institutions may enjoy significant influence on the formation or implementation of national political will. A paramount focus on political will might also bracket out contingency. As Posner reminds us,

… even if governments tried to comply in good faith with human rights treaties, it does not follow that human rights outcomes would improve. Governance is a highly complex activity that is vulnerable to the law of unintended consequences.[[45]](#footnote-45)

In some cases, even those genuinely committed to enhancing the welfare of their citizenry might follow mistaken policies. Nevertheless, even where structural restraints exist, positive trajectories can nevertheless be enacted by leaders, elites and coalitions, and this volition can decisively shape the institutional and logistical environment where rights might be realised.[[46]](#footnote-46) Rapid advances are possible. Even where they are not, reformist actors within states can cumulatively achieve much by adopting a twin-track approach of incremental reform and building public support to minimise opposition.[[47]](#footnote-47)

Understanding political will, therefore, requires an understanding of the reform context within which the commitments of policy-makers are developed and expressed, an operationally applicable framework for comprehending the social, ideological and institutional context in which change is imagined, implemented or blocked. It must go beyond the individual mindsets of leaders, ministers and senior civil servants to look at motivations of potential reformers (and/or their opponents) in positions of responsibility in terms of the formal incentives created by the institutional environment in which they work, as well as the informal rules of the game that frame and constrain political choice. The elaboration of values and doctrinal clarification that characterise ESR research must give way to ‘consequential analyses of current social realities, and in turn deep political knowledge of context and mapping of actors and alliances’ to understand how ‘decisions change over time as political and legal opportunity structures evolve.’[[48]](#footnote-48) Particularly in what we might call non-human rights regimes, an exploration of political will means reconciling the normative (where ESR scholars are comfortable) with a more realist or instrumental framing of the politics of human rights if we are to understand how the Covenant might deliver for the poor and the powerless in a given state.[[49]](#footnote-49) As Hafner-Burton notes,

It may sound sacrilegious, but power and interests are always at the heart of any effort to promote, or rebuke, human rights… for a human rights system to work, it must get systems of people, cultures and institutions to buy in: to think that protecting human rights is in their interests. There are many ways to define such an interest: reputationally, morally, economically, politically.… The practical question then becomes how to make rights into interests?[[50]](#footnote-50)

Only by exploring how normative understandings converge or clash with the domestic political incentives and institutions can theorists, civil society actors and global governance institutions like the CESCR understand why leaders might promote or resist policies conducive to rights realisation. Policies that diminish ESR are not obviously illogical—they are decisions to be explained by rational preferences by leaders, be they self-interested, struggling for survival or pursuing other good ends. There is an implicit sense in much of the human rights literature that increases in political will inevitably ‘permeate’ the policy environment by altering discourse, re-ordering agendas and changing trade-offs.[[51]](#footnote-51) However, political wills may conflict. Politics is generally a site of contestation more so than of harmony, interests and values collide, and may not generate resolutions absent loss or sacrifice. Political struggle ‘determines the scope and very existence of any rights vis-à-vis others.’[[52]](#footnote-52) A better understanding of political will may not necessarily allow these conflicts to be transcended or surmounted through an appeal to law, morality, rationality or consensus. It does, however, help us understand what makes the political world go round.

**Conceptualisations of political will in ESR theory**

While the phrase ‘political will’ is bandied about with ever greater frequency in work on ESR, there is little attempt to articulate the connection between that will and who exercises agency. The human actors who formulate, consent to, and implement rights-based policy are under-elaborated, as are the institutional imperatives they work within. Nevertheless, a survey of the literature reveals four main areas in which the capacious, contested mix of internal intellectual conviction and external commitments that makes up political will are visible in relation to ESR. To begin with, Tomaschat notes the preferences of both governmental elites in the moment of policy formation and the bureaucrats under them in the necessarily longer period of implementation are the ‘decisive factor in elevating the social climate in a given state to the level of expectations raised by [human rights] principles.’[[53]](#footnote-53) In this sense, ESR theory posits political will as a positive aspect of decision-making both (i) at the apex of government and (ii) in the bureaucratic machinery of the state. Where this positive aspect is absent, an alternative focus emerges, namely (iii) a conception of political will as absence, usually attributed to self-interest or inertia. Finally, political will is imagined (iv) as something built from the ground up to compel policy choices. Here, ESR advocates move beyond familiar but often ineffective advocacy tools like reporting abuses to international organisations or publicly shaming the perpetrators of human rights violations to generate democratic institutional innovations, consciously grounding ESR as a political practice to improve delivery of the social goods guaranteed by the ICESCR.[[54]](#footnote-54) This fourth aspect is by far the most theorised, most notably in debates about the indivisibility of ESR with civil and political rights and in arguments about the need for participation, and so it is not explored here.

1. ***Political will at the apex of government***

The relative vagueness with which rights in the ICESCR are elaborated (see for example Article 11(1)’s provision that states ‘recognise the right of everyone to an adequate standard of living’) means states have considerable leeway in relation to rights realisation and a wide policy space. States can be both insincere and tactical in referring to the limited wording of the Covenant to justify a substandard state of affairs.[[55]](#footnote-55) The formulation of meaningful policy in relation to health, education, welfare and so forth therefore requires the mobilisation and organisation of a critical mass of resources and people in pursuit of defined goals, which can only be done at the head of government. Identifying something as a problem that exists, as something that merits priority on the policy-making agenda, and then actually realising the resulting goals demands a conscious and determined process to overcome sizeable collective action problems (of opposition or merely lethargy) and establish institutional arrangements to facilitate their achievement.[[56]](#footnote-56) Any practical work governments, donor agencies, rights-based civil society or UN bodies wish to do with national governments need to take account of a government’s ability and willingness to pursue a course of reform.

We cannot assume, as O’Connell suggests, that in economic systems that privilege elites at the apex of government, commitments to ESR ‘are only ever formal, and honoured in the most grudging and limited ways.’[[57]](#footnote-57) As noted above, leaders can and do rise above very narrow self-interest to meaningfully pursue ESR because they might genuinely understand and support norms in question and assume certain benefits, or because self-interest and the norm in question converge*.* Effective leadership will usually stem from a relatively small number of leaders and elites ‘with the necessary vision, knowledge and experience’ to negotiate and implement key decisions to resolve specific problems or to achieve specific goals. [[58]](#footnote-58) Rights-based reforms involve contentious collective action problems that can only be resolved if leaders and coalitions work collectively and cooperatively. In operationalising rights to health, for example, ‘trade-offs and deeply contextualized political realities necessarily enter the equation.’[[59]](#footnote-59) The political commitments produced by these trade-offs will be manifest in national human rights action plans,[[60]](#footnote-60) as well as resolutions, declarations, policy papers and agendas.[[61]](#footnote-61) Scholars increasingly pay attention to budgeting as the pivotal locus where stated political will is transmuted into deployable resources.[[62]](#footnote-62) While a lot of political will must be manifest in the public and/or institutional arenas of action plans, declarations and budgets, power can be exercised in ways that are more relational than purely neutral or technocratic in the statist sense. There is a need to understand not only the characteristics of individual leaders or executives, but also the general patterns of elite behaviour within which those characteristics are applied.[[63]](#footnote-63) Given that this aspect of leadership has been neglected as a focus of analysis, ESR theorists are acutely aware of the need to open this ‘black box’ of policy making.[[64]](#footnote-64)

1. ***Political will in the machinery of government***

While actors at the apex level of governance might attempt in good faith to improve ESR, there is a notorious ‘implementation gap’ between international commitments and domestic implementation.[[65]](#footnote-65) ESR fulfilment requires existing bureaucratic institutions to proactively incorporate these rights into their daily work and thought, most obviously by mainstreaming them as a form of ‘common sense’ in public administration.[[66]](#footnote-66) There is a growing sense that the public policy failures that lead to non-fulfilment of ESR have gone unaccounted for because of the difficulty of isolating who is responsible for what failure.[[67]](#footnote-67) The most far-reaching provisions on ESR on the part of the government ‘may amount to paper promises’ absent the commitment of other national authorities to effectively implement and enforce them.[[68]](#footnote-68) Amoah, for example, argues that the right to housing presupposes the existence of a state machinery that is not only able but also willing to advance this course.[[69]](#footnote-69)

There is a sense in ESR theorisation that institutions and bureaucracy are things that are, or can be, intersubjectively constructed—political will can build a shared understanding of what an institution can do or should do. High performance in sites like ministries of health or housing can stem top-down ‘from deliberate, concentrated efforts by governments at the highest level of authority assigning top priority to institutional changes.’[[70]](#footnote-70) It can also be built from the bottom-up, where bureaucrats ‘imbued with a sense of mission’ identify with national goals set at the apex of government.[[71]](#footnote-71) However, hierarchical systems of control where a chain of principals and agents cause policy to filter down through rules-based processes will often not exist outside the Organisation for Economic Co-operation and Development (OECD) world. Grey zones of authority and institutional gaps might intentionally be (re)produced, as oral communications and unspoken ways of doing things take precedence over written law and formal regulation.[[72]](#footnote-72) Many of our ideas about ESR realisation do not fit in so-called ‘areas of limited statehood,’ namely those territorial or functional spaces where national governments are incapable of implementing or enforcing central decisions, including the law as it relates to issues like housing or welfare.[[73]](#footnote-73) This state fragility is itself understood, perhaps simplistically, as a function of a lack of political will to provide the basic functions needed to realise human rights.[[74]](#footnote-74)

Even where political will is galvanised, policy is never simply a pure object of choice for a government or bureaucracy trying to maximise the rights of the citizenry. Policy will instead emerge from a decision-making process that incorporates a number of other, often complementary, projects. Frequently the politics of human rights does not revolve around the existence of actual support for a particular right as canvassed above, ‘but rather the relative weight attached to competing claims by the political actors involved in debating concrete questions of public policy.’[[75]](#footnote-75) Rights are claims for government attention and resources (that is, the foremost proxies for political will), but these claims are invariably complicated by alternative framings. A mature understanding of political will must take seriously the idea that ESR, for all their normative force, will never be a universal motivator—different problem framings of poverty, education, welfare, health etc will shape political choice. As Hickey and Mitlin note:

[Rights] emerge in a myriad of different ways and forms in different times and places, and not always as a result of what might be recognizable as an outright ‘rights-based’ approach. External efforts to promote rights need to be carefully calibrated to the efforts of progressive actors in particular circumstances and at particular moments, and must accept the fact that local actors may have diverse strategies to reach similar goals.[[76]](#footnote-76)

For a ESR like the right to health or welfare to attract the political will to be realised through policy as a viable solution to an existing problem, it must complement or correspond with other policies that enhance capability or recognise dignity like pro-poor policy-making, poverty reduction, social transfers, social citizenship and, above all, development. For example, Saaresranta notes that governments invest in education less to realise the right to education than ‘to develop the economic workforce and to promote social cohesion, integration and a sense of national identity.’[[77]](#footnote-77) Ethiopia’s Productive Safety Net Programme (which provides guaranteed support to chronically food-insecure families) can be understood as a partial realisation of the right to food in Article 11(2) ICESCR. However, the more pertinent shapers of political will throughout the institutions of governance were a mix of urban protests, a recognition of the importance of social protection to development planning, and a valorisation of the productive capacity of individuals.[[78]](#footnote-78) ESR may need to resound with the language and assumptions of these projects, moving towards shared understandings of an issue if it is to catalyse political will.[[79]](#footnote-79)

1. ***Lack of political will***

If references to political will as an engine of rights realisation are prevalent in the literature, so too is the obverse. Scholars routinely attribute stasis, non-initiation of policy and/or regression in ESR as the product of a lack of political will. This is so particularly in cases where government actors publicly announce support for ESR, but neglect to allocate adequate resources, fail to implement policies or enforce sanctions, or regress in levels of fulfilment. For example, Sheehy and Chen argue that ‘despite implicit constitutional entrenchment and related legislative efforts, Ethiopia lacks institutional mechanisms and the political will to enforce the right to food.’[[80]](#footnote-80) While insistence on norms is essential, lamentations about absent political will (or ‘political won’t’ in Malena’s memorable formulation)[[81]](#footnote-81) have become central to the necessary process of comprehending those dynamics that prevent effective enjoyment of rights.[[82]](#footnote-82) The persistence of rights deprivations reflect their institutionalisation and normalisation within political systems, as well as their legitimation within political discourse. The realisation of ESR in the interests of groups that traditionally have been excluded, marginalised or disenfranchised, implies a restructuring of this political and normative order. A mature theory of ESR, one that is politicised and pragmatic but not dogmatic, must eschew retrospective complaint about non-realisation of rights to instead proactively engage with politics and the political system.[[83]](#footnote-83) For Mégret, this repoliticisation of rights would mean making them ‘amenable to the same sorts of discussions that are characteristic of politics’ dialectics of ends and means,’ rooting the respect, protection and fulfilment of ESR squarely in the realm of political will.[[84]](#footnote-84)

For some, this vision of political will goes beyond laying bare the effects of elite interests on the state’s policy choices—it is the first step in redressing them. As Freedman argues, for example, ‘the ultimate role of human rights is to identify the workings of power that keep unacceptable levels of maternal mortality as they are and to use the human rights vision of dignity and social justice to work for the re-arrangements of power necessary for change.’[[85]](#footnote-85) Thus, while human rights-based approaches to health require buy-in from the government, there is also an acceptance that the production of political will might equally demand the conscious subversion of pre-existing power relations that structurally produce patterns of ill-health among certain populations.[[86]](#footnote-86)

**Opening the black box**

This article so far has established that political will is a dominant explanation for the non-realisation of ESR, spelled out the contours of this often nebulous concept, and demonstrated three main areas where anxiety over political will is most manifest. This does not, however, explain how the careful analysis of power in all its forms might actually be undertaken with a view to incorporating a sufficiently complex understanding of how will for change emerges among political elites and bureaucrats. Little about ESR theorisation helps much in this respect. ESR theory has proven better at explaining how rights have gone unrealised than offering concrete alternatives—there are few suggestions of practical levers for change or how behavioural change might be catalysed. There is little interest, much less agreement, on the specific forms of politics that matter most in the realisation of ESR, or how these factors might intersect with each other. As Sano notes, among the areas most weakly developed in human rights research ‘is how actors within governments and international organisations translate human rights rhetoric and commitment into practical policy.’[[87]](#footnote-87) As a result, comprehension of policy formulation or reform within ministries is weak. Even positive outcomes in areas like education, health or social security are difficult to trace to specifically rights-induced policy instruments.[[88]](#footnote-88)

This blind spot can be attributed to a sense that politics are less an integral part of rights realisation than an obstacle to be overcome. Rights, and particularly ESR, are presented as morally imperative and self-evident by their advocates, ‘accepted as bedrock truths not subject to sordid political squabbling.’[[89]](#footnote-89) Indeed, the essence of ESR as legal rights, and not political or programmatic goals, lay at the root of debates on justiciability.[[90]](#footnote-90) For some, ESR are ‘meant to compensate for the inadequacies of the political process’ that fails to realise them.[[91]](#footnote-91) The dominance of legalism means implementation is viewed as a process merely requiring claims holders and their entitlements to be identified, while duty holders accept their obligations. As Haldemann notes, by treating law as a self-contained system of rules that are ‘just there’, legalists have virtually nothing to say about politics, manifesting instead a ‘deep distaste for messy solutions, uncertainties, accommodations and negotiations—all things that seem essential to politics as an activity.’[[92]](#footnote-92)

The problem of legalism is compounded by the problem of idealism, an ingrained tendency to exaggerate the importance of ideas as a driver of elite commitment to particular forms of welfare. As Regilme argues, there is a widespread assumption in rights theory that national discourses in relation to policy challenges will automatically invoke human rights.[[93]](#footnote-93) Indeed, some contend that political appeals to individual interest or material well-being may struggle to attract sustainable support without the larger rhetorical rationale of rights.[[94]](#footnote-94) This idealism is compounded by a technocratic approach in which reforms are conceived of in technical and normative terms, with little attention to the political side of the activity. When a body like the Office of the High Commissioner for Human rights recommends that, for example

States must reduce the financial burden of health care and health protection on the poor, for example by reducing and eliminating user fees… by moving away from user fees and introducing other pre-payment mechanisms (e.g., national insurance or general taxation)… [[95]](#footnote-95)

it ignores the fact that political leaders are often the beneficiaries of the status quo that needs changing. Technical recommendations need to be politically shaped to foster will, by making compelling arguments, elaborating plausible causal models of impact, drawing links to higher and/or alternative policy goals.

Scholars increasingly accept that we need to ‘find creative ways’ to embrace the fact that power is central to the process of rights realisation.[[96]](#footnote-96) Bearing in mind that little about how ESR is theorised helps us to assess how a given ESR might find the sweet spot between the ideational and the interest-driven, how might the field transcend the legal tunnel vision that constrains useful analysis? Before answering, it is worth noting that the problem is less acute in the Global North. A core aspect of the widespread acceptability of the indivisibility of rights is the conviction that civil and political rights as manifest in participation and elections are conducive to the realisation of ESR (and vice-versa, of course). As Drèze points out (tautologously, but necessarily) in democracies political will is an outcome of democratic politics, readily understandable but question-begging when those politics do not produce alleviation of rights breaches. [[97]](#footnote-97) Even those liberal societies with evident commitments to ESR struggle to articulate a coherent non-deontological response to the question of why we should care about rights that lies at the root of formulating political will to address them.[[98]](#footnote-98) The increasing misappropriation of human rights by populist actors in democratic societies to retrogressively realise or reverse previous commitments is a further, and more novel, challenge.[[99]](#footnote-99) Nevertheless, while ESR scholars accept that the electoral process gives rise to diverse and conflicting agendas and therefore does not necessarily ensure that governments will guarantee broad public goods,[[100]](#footnote-100) there is nevertheless a threshold understanding of the parameters of how political will is shaped in the Global North.

This is not the case for many (though certainly not all) areas in the Global South. Clarity over political will is easier to discern in stable socio-political environments with legitimate political authority than it is in less stable, less democratic and potentially more impenetrable, polities.[[101]](#footnote-101) Aside from the generally weaker commitment to competitive elections and lack of programmatic parties, theorists of ESR in the developing world have to grapple with the gap between formal or de jure law and what actually happens in political life—‘the stated “rules of the game” have near zero predictive power for what will actually happen.’[[102]](#footnote-102) As a result, in the developing world, political will and political action are more complex, unpredictable and opaque.[[103]](#footnote-103) The political will to monitor, much less implement, appropriate strategies is often lacking in less-developed countries.[[104]](#footnote-104)

Where then should theorists of ESR look to open up the black box of political will in those states where fulfilment of ESR is weakest? It is submitted that scholarship in the field of development might generate applicable theories into how the political will for societal betterment might be found. As noted earlier, ESR will often correspond, or have policy commonalities, with other distributional regimes like social service provision and poverty reduction. In the Global South, development is the most important of these distributional regimes. Development is an attempt to transform and re-engineer societies. Insofar as development generates employment, reduces poverty and develops infrastructure, development obviously provides the material wherewithal to improve education, health and welfare outcomes. It has become more normative in character as donors and international organisations move beyond GDP growth to attempt to build states that are inclusive, responsible and accountable. Indeed, for over two decades development actors have sought

… to reformulate their concerns in the language of rights, while the human right advocates are taking on board developmental issues without which, they recognise, rights-talk can have little meaning to, and legitimacy with, the vast majority of the people in poor countries of the South.[[105]](#footnote-105)

Of course, the predictable (and reasonable) response is that while development might have positive externalities for ESR, we should not consider this as rights fulfilment because of the lack of rights-based intentionality. As Uvin points out, successful development cannot be conflated with the implementation of human rights, because service-based approaches and rights-based approaches are very different in ethos. To have a right is not just about sufficiency in terms of health or housing—it is to have an enforceable social guarantee of it.[[106]](#footnote-106) Nevertheless, while leaders might favour ESR, they might not necessarily endorse the translation of these ends into individually claimable legal rights or their realisation through an adjudicative process that risks narrowing the possibilities for strategic action.[[107]](#footnote-107) Of course, it is worth pointing out that rights have an existence outside formalisation, legalisation and administration that we see in these two developmental/judiciable paradigms—they can have new or non-institutional trajectories that make meaning in multiple ways beyond the state and that are symbolic, pluralistic and evolving.[[108]](#footnote-108) Nevertheless, insofar as (a) many development objectives generally overlap ESR and (b) human rights-based approaches to development attempt to redefine development aims ‘such that the boundaries between development and human rights would disappear,’[[109]](#footnote-109) there is good reason to look to development studies for insights into how political will is shaped and formed. This is so even if we accept that development and rights have the very different philosophical underpinnings that Uvin points out.

One thing that is immediately clear is that attempts to explore the policy space in which a given set of political and bureaucratic elites bring interests and ideas to bear on a defined problem is far more advanced in the development literature. Politics, and political will, have long been a core element in efforts to explain how countries achieve developmental outcomes.[[110]](#footnote-110) Development actors, be they domestic or international, have systematically sought to comprehend national power relations, vested interests and ideological commitments to understand the formal and informal processes by which policy reform is negotiated. The literature that emerged represents a conscious departure from the technicist policy conditionalities and preoccupation with growth associated with the structural adjustment era. It instead emphasises more progressive development paradigms that take seriously the need for reform processes to be underpinned by a sufficient level of endogenous commitment among rulers and administrators to be sustainable over the longer term. The expectation is that a better understanding of the incentives and behavioural patterns at play permits development practitioners to engage more effectively in ‘pro poor’ policy reforms.[[111]](#footnote-111) Importantly, the resulting literature also explores why government commitment to development might be lacking, which is the case in some low-income, fragile states or neopatrimonial states.

## The predominant means by which this commitment is assessed is through PEA, a conscious attempt to ‘unpack all the issues previously lumped into the “political will” box.’[[112]](#footnote-112) It has been adopted by multilateral agencies (most notably the World Bank)[[113]](#footnote-113) and donors like the UK’s Foreign*,* CommonwealthandDevelopment Office,[[114]](#footnote-114) USAID[[115]](#footnote-115) and the Australian Department of Foreign Affairs and Trade.[[116]](#footnote-116) Analogous approaches have been employed elsewhere, e.g the Swedish International Development Cooperation Agency’s Power Analysis process or the Netherlands’s Strategic Governance and Corruption Analysis. Of course, one can argue that these bodies promote neoliberal approaches to development that are often ultimately unconducive to the realisation of ESR. However, the evaluations derived from PEA can be separated from any given prescription. This is because PEA zeroes in on the way interests, incentives and institutions interact to promote or inhibit reform to promote more effective and feasible development policies. As such, it *shares* the preoccupation of ESR theory in how institutions like executives, legislatures and courts shape policy, but considerably *deepens* the focus on how incentives motivate actors to translate interests into policy outputs that promote or constrain certain ends. It furthermore *complements* ESR’s social constructivist interest in the way norms and values impact on the distribution of social goods.[[117]](#footnote-117) PEA can shed insights into what shapes political commitment at a macro-level, at sector level (e.g. housing, health, food) and at the level of a given problem (a pandemic, an economic crash).[[118]](#footnote-118)As such, PEA is driven by an acknowledgement of the difficulties caused by lack of political will that echoes the despair in ESR theory canvassed earlier:

## Usually, we have a good idea about what needs to be done to achieve poverty reduction, but are much less clear about why it’s not happening. All too often, we attribute slow or no progress to lack of political will … It’s this black box of lack of political will that D[rivers] O[f] C[hange] analysis unpacks.[[119]](#footnote-119)

As such, the bespoke development of theory through PEA to address the specific problem of political will makes it is far more proactive in this respect than ESR theory has proven. Some forms of PEA assess how attempts to expand social protections are compatible with pre-existing political settlements at the apex of the state, the accepted ways of doing things where underlying factional interests are mediated (the so-called ‘political settlements’ approach).[[120]](#footnote-120) Kelsall, for example, identifies three particularly common forms of settlement, namely: (a) developmental (b) predatory and (c) a hybrid of the first two. While these are ideal types, developmental states offer the most potential for possessing or catalysing political will for the provision of public goods insofar as they are inclusive, enjoy a threshold degree of coordination amongst elites, and a bureaucracy that operates on largely impersonal norms.[[121]](#footnote-121)

Other forms of PEA, most notably the Drivers of Change approach pioneered in the 2000s, take as its starting point the specific goal of ‘unpacking political will.’[[122]](#footnote-122) This method of analysis looks at both reform champions and those pockets of resistance to reforms, assessing the relative place of ideas and norms in the fabric of the political world to draw linkages between a country’s political framework and the operations of development agencies.[[123]](#footnote-123) Drivers of Change analyses can be initiated and carried out in-country. There is no standardised approach, but it has incorporated a number of techniques to generate a nuanced understanding of how interests, ideas and institutions interact and influence each other, including case studies, interviews, surveys, historical analysis, network analysis and stakeholder mapping to identify and analyse the interests, positions, and power dynamics of leaders and administrators involved in policy-making and implementation.[[124]](#footnote-124) In terms of addressing lack of political will in the machinery of government, PEA might identify the institutions or individuals who can resolve problems and seek pragmatic solutions to rights-based issues through iterative learning or who might be prepared to experiment with flexible and strategic rights-based approaches.

As such, there is much to be learned by those in government or donor agencies seeking to advance in ESR from PEA in development theory given the opaque change processes at play and the field’s shortage of prior accumulated evidence on what works. At the very minimum, it can help politicians, donors and civil society avoid well-attested hazards and unintended consequences of ‘politically blind’ advice or campaigning. More ambitiously, it can generate a nuanced breakdown of national- and local-level service delivery challenges. PEA can foster adaptability and flexibility and in program design by aligning projects with incentives. As such, it ‘works with the grain’ inasmuch as it a tallies with both economic interests and that ‘core set of beliefs and values—concerning power, accountability and social morality—that have proven extremely durable and remain powerful drivers of behaviour.’[[125]](#footnote-125) What’s more, similarities in political dynamics across different states (eg clientelism, neopatrimonialism, capability traps) mean that PEA can go beyond context-specific planning to generate a cumulative comparative knowledge base about how to realise ESR in distinct types of political environments.[[126]](#footnote-126)

The argument here is not that ESR theory needs to adopt or mimic a PEA or a specific mode of evaluation like political settlement theory or Drivers of Change. The point instead is that if ESR theory is serious, as it must be, about going beyond throwaway rhetorical references to commitment or reluctance in relation to failures to realise ESR in the developing world, it needs to develop a theory of political will. If the legalistic, technocratic and ideational language of ESR theory does not conduce to developing such a theory, the field should look to other areas that have had to grapple with it. Due to the convergences of ESR with development, development studies is a natural place to look. Development theorists and practitioners have advanced plausible ways of thinking about political will and its relation to projects for social improvement that have been adopted by governments. PEA does not yield iron laws about how commitment to alleviating hunger, ill-health or education shortfalls can emerge or be sustained. It has been criticised for conceptual limitations, for lack of operational links to everyday life and for lack of evidence about its applicability.[[127]](#footnote-127) Like other forms of so-called ‘Thinking and Working Politically’ in development theory, it does not yet represent the dominant approach in that field.[[128]](#footnote-128) However, in contradistinction to ESR theory, it has developed tenable theories for how political commitment is catalysed at the centre of a state to define, encourage and prosecute objectives in areas like poverty, hunger, housing and health. In an era where the ESR debate has moved beyond justiciability towards the practical operationalisation of ESR,[[129]](#footnote-129) the credibility of ESR theory may rely on the extent to which it can draw on work in development studies in relation to political will to elaborate theories of change premised on well-informed and realistic assumptions.

**Conclusion**

In a world characterised by vast wealth, technological development and strong polities, the widespread failure to respect, protect and fulfil ESR will seem to many a matter of choice. It is no surprise, therefore, that the essentially protean language of political will is drawn on as an explanation for how such rights are realised or how such necessities go unmet. After all, it borders on the truistic to argue that the uptake of the duties of states contained in the ICESCR depends critically on the ‘[political] will of states and their bureaucracies, agents and leaders.’[[130]](#footnote-130) However, in the literature on ESR, the concept of political will has never advanced beyond the status of a synonym for those factors at the intersection of the psychological and the institutional that create a reform space. This has resulted in a sometimes-diaphanous promotion of ESR largely unconcerned with agency, power, interests and compromise. No studies have produced generalisable conclusions about the relative importance of ESR in explaining the adoption or non-adoption of certain policies by leaders and bureaucracies. As such, advocates of ESR have dishearteningly little to say about the very political will they identify as central to (non)realisation. Without it, advocates of ESR will remain at one remove from the day-to-day task of policy-making and those ‘arenas of contestation’ where decisions are made. [[131]](#footnote-131) This article has posited PEA in development literature as one place where human rights scholars and policy-makers might look for a better understanding of where openings for inspired leadership, political coalitions, administrative initiative or grassroots campaigns that pursue policies to benefit those deprived of food, housing, employment or welfare lie. With a satisfactory understanding of how change, reversal or inertia happen and how they are sustained, a marriage between the prescriptive and normative impetus of ESR theory with the analytic and diagnostic drivers of PEA might generate useful insights, taking political will beyond the realm of rhetoric.

**Notes on contributors**

Professor Padraig McAuliffe teaches at the School of Law and Social Justice at the University of Liverpool. He is the author of *Transformative Transitional Justice and the Malleability of Post-Conflict Societies* (Edward Elgar, 2017)

**ORCID:** 0000-0002-7712-5472

1. International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR). [↑](#footnote-ref-1)
2. Ignacio Saiz, ‘Rights in Recession? Challenges for Economic and Social Rights Enforcement in Times of Crisis’ (2009) 1(2) Journal of Human Rights Practice 277, 277 [abstract]. [↑](#footnote-ref-2)
3. Sandra Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* (Oxford University Press 2008) 2. [↑](#footnote-ref-3)
4. Yuval Shany, ‘Stuck in a Moment in Time: The International Justiciability of Economic, Social and Cultural Rights’ in Daphne Barak-Erez and Aeyal Gross (eds), *Exploring Social Rights: Between Theory and Practice* (Bloomsbury 2007) 104. [↑](#footnote-ref-4)
5. Daniel Brinks, ‘Solving the Problem of (Non)compliance in Social and Economic Rights Litigation’ in Malcolm Langford, César Rodríguez-Garavito and Julieta Rossi (eds), *Social Rights Judgments and the Politics of Compliance: Making it Stick* (Cambridge University Press 2017) 475. [↑](#footnote-ref-5)
6. To draw on the definition of politics in Adrian Leftwich, *What is Politics? The Activity and its Study* (John Wiley & Sons 2015). [↑](#footnote-ref-6)
7. Michael Freeman, ‘Is a Political Science of Human Rights Possible?’ (2001) 19(2) Netherlands Quarterly of Human Rights 123, 138. [↑](#footnote-ref-7)
8. Anthony Langlois, ‘Human Rights in Crisis? A Critical Polemic against Polemical Critics’ (2012) 11(4) Journal of Human Rights 558, 562. [↑](#footnote-ref-8)
9. Gerd Oberleitner, ‘Does Enforcement Matter?’ in Conor Gearty and Costas Douzinas (eds), *The Cambridge Companion to Human Rights Law* (Cambridge University Press 2012) 252. [↑](#footnote-ref-9)
10. Thomas Risse-Kappen, Stephen Ropp, and Kathryn Sikkink (eds), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge University Press 1999). [↑](#footnote-ref-10)
11. Ryan Goodman and Derek Jinks, *Socializing States: Promoting Human Rights through International Law* (Oxford University Press 2013). [↑](#footnote-ref-11)
12. Laurel Fletcher, ‘Power and the International Human Rights Imaginary: A Critique of Practice’ (2022) 13(3) Journal of Human Rights Practice 749, 750. [↑](#footnote-ref-12)
13. Oberleitner (n 9) 252-253. [↑](#footnote-ref-13)
14. Saiz (n 2) 278 and 281-282. [↑](#footnote-ref-14)
15. Andreas Müller, ‘The Role of Domestic Actors in the Implementation and Enforcement of Social Rights’ in Christina Binder and others (eds), *Research Handbook on International Law and Social Rights* (Edward Elgar Publishing 2020) 296. [↑](#footnote-ref-15)
16. Alison Brysk, *Speaking Rights to Power: Constructing Political Will* (Oxford University Press 2013) 1. [↑](#footnote-ref-16)
17. Olivier De Schutter, *International Human Rights Law* (Cambridge University Press 2019) 576. [↑](#footnote-ref-17)
18. Amnesty International, *Human Rights for Human Dignity* (Amnesty International 2014) 143. [↑](#footnote-ref-18)
19. Brysk (n 16) 27. [↑](#footnote-ref-19)
20. Center for Economic and Social Rights and Instituto Centroamericano de Estudios Fiscales, *Rights or Privileges? Fiscal Commitment to the Rights to Health, Education and Food in Guatemala* <<https://www.cesr.org/sites/default/files/Rights%20or%20Privileges%20Executive%20Summary%20final_0.pdf>> 8, accessed 19 October 2023. [↑](#footnote-ref-20)
21. Economic and Social Council, Human Rights and Extreme Poverty, Report of the Independent Expert, Arjun Sengupta, UN Doc. E/CN.4/2006/43, 14. [↑](#footnote-ref-21)
22. Sofia Gruskin, Dina Bogecho and Laura Ferguson ‘“Rights-based Approaches” to Health Policies and Programs: Articulations, Ambiguities, and Assessment’ (2010) 31(1) Journal of Public Health Policy 129, 131. [↑](#footnote-ref-22)
23. Jean Drèze, ‘Democracy and Right to Food’ (2004) 39(17) *Economic and Political Weekly* 1723,1724. [↑](#footnote-ref-23)
24. Manisuli Ssenyonjo, ‘Reflections on State Obligations with Respect to Economic, Social and Cultural Rights in International Human Rights Law’ (2011) 15(6) International Journal of Human Rights 969, 983. [↑](#footnote-ref-24)
25. David Whelan, *Indivisible Human Rights: A History* (University of Pennsylvania Press 2010) 205. [↑](#footnote-ref-25)
26. David Beetham, ‘What Future for Economic and Social Rights?’ (1995) 43(1) *Political Studies* 4, 57 and 59. [↑](#footnote-ref-26)
27. Rory O'Connell and others, *Applying an International Human Rights Framework to State Budget Allocations: Rights and Resources* (Routledge 2014) xv. [↑](#footnote-ref-27)
28. Joe Wills and Ben Warwick, ‘Contesting Austerity: The Potential and Pitfalls of Socioeconomic Rights Discourse’ (2016) 23(1) Indiana Journal of Global Legal Studies 629, 663. [↑](#footnote-ref-28)
29. Alicia Ely Yamin, ‘The Future in the Mirror: Incorporating Strategies for the Defense and Promotion of Economic, Social, and Cultural Rights into the Mainstream Human Rights Agenda’ (2005) 27(4) Human Rights Quarterly 1200, 1202. [↑](#footnote-ref-29)
30. Sakiko Fukuda-Parr, ‘Developmental States, Neoliberalism, and the Right to Food: Brazil and South Africa’ in Gillian MacNaughton and Diane Frey (eds), *Economic and Social Rights in a Neoliberal World* (Cambridge University Press 2018) 226. [↑](#footnote-ref-30)
31. As asked, for example, in Drèze (n 23) 1724. [↑](#footnote-ref-31)
32. As asked in Inga Winkler, ‘Socio-economic Rights: Consolidating Progress, Charting Future Directions’ in Michael Stohl and Alison Brysk (eds), *A Research Agenda for Human Rights* (Edward Elgar 2020) 114. [↑](#footnote-ref-32)
33. Indeed, the only sustained study of political will as it relates to rights generally is in Brysk (n 16). However, her understanding of political will differs to that in this article. While this article adopts a top-down focus on executive, legislative and bureaucratic will, in her book political will relates to the propensity of grassroots actors to mobilise to protect and empower the victims of human rights abuses. Political will is measured by a commitment to translate normative recognition into activities like monitoring, lobbying, litigation, people power etc (at 7). The book is more about how ‘speaking’ rights can construct political will (at 35) than how political will builds rights. [↑](#footnote-ref-33)
34. Bård Andreassen, Hans-Otto Sano and Siobhán McInerney-Lankford, ‘Human Rights Research Method’ in Bård Andreassen, Hans-Otto Sano and Siobhán McInerney-Lankford (eds), *Research Methods in Human Rights* (Edward Elgar 2017) 11. [↑](#footnote-ref-34)
35. Winkler (n 32) 114. [↑](#footnote-ref-35)
36. Linn Hammergren, *Political Will, Constituency Building, and Public Support in Rule of Law Programs* (USAID 1998) 12. [↑](#footnote-ref-36)
37. Phuong Pham, Niamh Gibbons and Patrick Vinck, ‘A Framework for Assessing Political Will in Transitional Justice Contexts’ (2019) 23(6) International Journal of Human Rights 993, 993. [↑](#footnote-ref-37)
38. Lori Ann Post, Amber NW Raile and Eric Raile, ‘Defining Political Will’ (2020) 38(4) Politics & Policy 653, 659. [↑](#footnote-ref-38)
39. Derick Brinkerhoff, ‘Assessing Political Will for Anti‐corruption Efforts: An Analytic Framework’ (2000) 20(3) Public Administration and Development239, 240. [↑](#footnote-ref-39)
40. Brysk (n 16) 7. [↑](#footnote-ref-40)
41. Pham, Gibbons and Vinck (n 37) 1001. [↑](#footnote-ref-41)
42. Post, Raile and Raile (n 38) 670. [↑](#footnote-ref-42)
43. Tanja Borzel and Thomas Risse. ‘Human Rights in Areas of Limited Statehood: The New Agenda’ in Thomas Risse, Stephen Ropp and Kathryn Sikkink (eds), *The Persistent Power of Human Rights: From Commitment to Compliance* (Cambridge University Press 2013) 63. [↑](#footnote-ref-43)
44. Philip Alston and Ryan Goodman, *International Human Rights* (Oxford University Press 2013) 317. [↑](#footnote-ref-44)
45. Eric Posner, *The Twilight of Human Rights* (Oxford University Press 2014) 11. [↑](#footnote-ref-45)
46. Adrian Leftwich, *Bringing Agency Back In: Politics and Human Agency in Building Institutions and States* (*Development Leadership Pprogramme* 2009) 12. [↑](#footnote-ref-46)
47. Mark Robinson, ‘The Politics of Successful Governance Reforms: Lessons of Design and Implementation’ (2007) 45(4) Commonwealth & Comparative Politics 521, 533. [↑](#footnote-ref-47)
48. Alicia Ely Yamin and Rebecca Cantor, ‘Between Insurrectional Discourse and Operational Guidance: Challenges and Dilemmas in Implementing Human Rights-based Approaches to Health’ (2014) 6(3) Journal of Human Rights Practice 451, 464. [↑](#footnote-ref-48)
49. Siobhán McInerney-Lankford, ‘Legal Methodologies and Human Rights Research: Challenges and Opportunities’ in Andreassen, Sano and McInerney-Lankford (eds) *Research Methods in Human Rights* (Edward Elgar 2017) 55. [↑](#footnote-ref-49)
50. Emilie Hafner-Burton, ‘Yesterday, Today, and Tomorrow’ inAlice Storey and others (eds) *Human Rights at Risk: Global Governance, American Power, and the Future of Dignity* (Rutgers University Press 2022) 175. [↑](#footnote-ref-50)
51. Brysk (n 16) 7. [↑](#footnote-ref-51)
52. Clifford Bob, *Rights as Weapons: Instruments of Conflict, Tools of Power* (Princeton University Press 2019) 46. [↑](#footnote-ref-52)
53. Christian Tomuschat, *Human Rights: Between Idealism and Realism* (Oxford University Press 2014) 158. [↑](#footnote-ref-53)
54. See for example Jeremy Perelman and Lucie White (eds), *Stones of Hope: How African Activists Reclaim Human Rights to Challenge Global Poverty* (Stanford University Press 2020). [↑](#footnote-ref-54)
55. Dominik Steiger, ‘In International Law We Shall Trust:(Even in) The Case of Economic and Social Rights’ in Björnstjern Baade and others (eds), *Cynical International Law? Abuse and Circumvention in Public International and European Law* (Springer 2021) 218. [↑](#footnote-ref-55)
56. Leftwich (n 46) 14 and 22. [↑](#footnote-ref-56)
57. Paul O’Connell, ‘Let Them Eat Cake: Socio-Economic Rights in an Age of Austerity’ in Aoife Nolan, Rory O’Connell and Colin Harvey (eds), *Human Rights and Public Finance: Budgets and the Promotion of Economic and Social Rights* (Hart Publishing 2013) 60. [↑](#footnote-ref-57)
58. Adrian Leftwich and Steve Hogg, *Leadership, Elites and Coalitions:* *The case for leadership and the primacy of politics in building effective states, institutions and governance for sustainable growth and social development* (Developmental Leadership Program 2007) 3. [↑](#footnote-ref-58)
59. Yamin and Cantor (n 48) 453. [↑](#footnote-ref-59)
60. Azadeh Chalabi, *National Human Rights Action Planning* (Oxford University Press 2018). [↑](#footnote-ref-60)
61. Alessandra Lundström, ‘Human Rights-based Approaches to Development Cooperation, HIV/AIDS, and Food Security’ (2007) 29(2) Human Rights Quarterly 460. [↑](#footnote-ref-61)
62. O’Connell and others (n 27). [↑](#footnote-ref-62)
63. Heather Lyne de Ver, *Leadership,* *Politics and Development: A Literature Survey* (Development Leadership Programme 2008) 5. [↑](#footnote-ref-63)
64. A phrase used in Gobin Nankani, John Page and Lindsay Judge, ‘Human Rights and Poverty Reduction Strategies: Moving Towards Convergence’ in Philip Alston and Mary Robinson (eds), *Human Rights and Development: Towards Mutual Reinforcement* (Oxford University Press 2005) 477. [↑](#footnote-ref-64)
65. Chalabi (n 60) 184. [↑](#footnote-ref-65)
66. Colin Harvey and Eoin Rooney, ‘Better on the Margins? A Critique of Mainstreaming Economic and Social Rights’ in Nolan, O’Connell and Harvey (eds) *Human Rights and Public Finance: Budgets and the Promotion of Economic and Social Rights* (Hart Publishing 2013) 126. [↑](#footnote-ref-66)
67. Saiz (n 2) 284. [↑](#footnote-ref-67)
68. Sandra Liebenberg, ‘The Protection of Economic, Social and Cultural Rights in Domestic Legal Systems’,

in Asbjorn Eide, Catarina Krause and Allan Rosas (eds), *Economic, Social and Cultural Rights* (Martinus Nijhoff, 2001) 84. [↑](#footnote-ref-68)
69. Gregory Amoah, ‘Living Up to the Normative Ideal of the Human Right to Adequate Housing in Urban Ghana’ (2019) 18(4) Journal of Human Rights 439, 443. [↑](#footnote-ref-69)
70. Sam Hickey, *The Politics of State Capacity and Development in Africa: Reframing and Researching “Pockets of Effectiveness* (Effective States and Inclusive Development Research Centre 2019) 8. [↑](#footnote-ref-70)
71. Ziya Öniş, ‘The Logic of the Developmental State’ (1991) 24(1) Comparative Politics 109, 114. [↑](#footnote-ref-71)
72. See generally Brian Levy and Michael Walton, *Institutions, Incentives and Service Provision: Bringing Politics Back In* (Effective States and Inclusive Development Research Center 2013). [↑](#footnote-ref-72)
73. Borzel and Risse (n 43). [↑](#footnote-ref-73)
74. Organisation for Economic Co-operation and Development, *Principles for good international engagement in fragile states and situations* (2007) <<https://www.oecd.org/dac/conflict-fragility-resilience/docs/38368714.pdf>> 2, accessed 19 October 2023. [↑](#footnote-ref-74)
75. Paul Snidermanand others, *The Clash of Rights: Liberty, Equality, and Legitimacy in Pluralist Democracy* (Yale University Press 1996) 3. [↑](#footnote-ref-75)
76. Samuel Hickey and Diana Mitlin, ‘The potential and pitfalls of rights-based approaches to development’ in Samuel Hickey and Diana Mitlin (eds), *Rights-based approaches to development: Exploring the potential and pitfalls* (Kumarian Press 2009), 226. [↑](#footnote-ref-76)
77. Tiina Saaresranta, ‘Education in Pursuit of the Development Dream? Effects of Schooling on Indigenous Development and Rights in Bolivia’ (2014) 32(4) Nordic Journal of Human Rights 352, 355. [↑](#footnote-ref-77)
78. Tom Lavers, ‘Social Protection in an Aspiring ‘Developmental State’: The Political Drivers of Ethiopia’s PSNP’ (2019) 118(473) African Affairs 646, 660-662. [↑](#footnote-ref-78)
79. Pádraig McAuliffe, ‘The Ambivalent Status of Socio-Economic Rights in Human Rights-Based Approaches to Development’ (2022) 40(3) Nordic Journal of Human Rights 481, 490. [↑](#footnote-ref-79)
80. Benedict Sheehy and Ying Chen, ‘Let Them Eat Rights: Re-Framing the Food Insecurity Problem Using a Rights-Based Approach’ (2022) 43(3) Michigan Journal of International Law 631, 684. [↑](#footnote-ref-80)
81. Carmen Malena (ed), *From Political Won't to Political Will: Building Support for Participatory Governance* (Kumarian Press 2009). [↑](#footnote-ref-81)
82. Yamin and Cantor (n 48) 463. [↑](#footnote-ref-82)
83. Mark Heywood, ‘South Africa’s Journey from Socialism to Human Rights: The True Confessions of an Errant Socialist’ (2019) 11(2) Journal of Human Rights Practice 305, 319 and 320. [↑](#footnote-ref-83)
84. Frédéric Mégret, ‘Where Does the Critique of International Human Rights Stand? An Exploration in 18 Vignettes’ in Jose Maria Beneyto and David Kennedy (eds), *New Approaches to International Law: The European and the American Experiences* (Springer 2013) 33. [↑](#footnote-ref-84)
85. Lynn Freedman, ‘Using Human Rights in Maternal Mortality Programs: From Analysis to Strategy’ (2001) 75(1) International Journal of Gynecology & Obstetrics 51, 51. [↑](#footnote-ref-85)
86. Yamin and Cantor (n 48) 451 [abstract]. [↑](#footnote-ref-86)
87. Hans-Otto Sano, ‘Evidence in Demand: An Overview of Evidence and Methods in Assessing Impact of Economic and Social Rights’ (2014) 32(4) Nordic Journal of Human Rights 387, 396. [↑](#footnote-ref-87)
88. Ibid. [↑](#footnote-ref-88)
89. Bob (n 52) 44. [↑](#footnote-ref-89)
90. Pádraig McAuliffe, ‘Programmatic Approaches to Realising Socio-Economic Rights: Debates, Definitions and Trends’ (2021) 22(1) Melbourne Journal of International Law 1, 7-8. [↑](#footnote-ref-90)
91. Pointed out, but not argued, in Ludovic Langlois-Thérien, ‘The Justiciability of Housing Rights: From Argument to Practice’ (2012) 4(2) Journal of Human Rights Practice 213, 217. [↑](#footnote-ref-91)
92. Frank Haldemann, *Transitional Justice for Foxes: Conflict, Pluralism and the Politics of Compromise* (Cambridge University Press 2022) 166. [↑](#footnote-ref-92)
93. Salvador Santino Regile Jr., ‘The Global Human Rights Regime’ in Alice Storey and others (eds), *Human Rights at Risk: Global Governance, American Power, and the Future of Dignity* (Rutgers University Press 2022) 4. [↑](#footnote-ref-93)
94. Brysk (n 16) 25. [↑](#footnote-ref-94)
95. Office of the High Commissioner For Human Rights, *Principles and guidelines for a human rights approach to poverty reduction strategies* (Office of the High Commissioner for Human Rights 2006) para. 181. [↑](#footnote-ref-95)
96. Hafner-Burton (n 50) 183. [↑](#footnote-ref-96)
97. Drèze (n 23) 1724. [↑](#footnote-ref-97)
98. Gunter Frankenberg, ‘Why Care-The Trouble with Social Rights’ (1995) 17(4/5) Cardozo Law Review 1365. [↑](#footnote-ref-98)
99. Graínne,De Búrca and Katharine G. Young, ‘The (Mis)appropriation of Human Rights by the New Global Right: An Introduction to the Symposium’ (2023) 21(1) International Journal of Constitutional Law 205. [↑](#footnote-ref-99)
100. Sheehy and Chen (n 80) 696. [↑](#footnote-ref-100)
101. Post, Raile and Raile (n 38) 657. [↑](#footnote-ref-101)
102. Lant Pritchett and Eric Werker, *Developing the Guts of a GUT (Grand Unified Theory): Elite Commitment and Inclusive Growth* (Effective States and Inclusive Development Research Centre2012) 39. [↑](#footnote-ref-102)
103. Carmen Malena, ‘Building Political Will for Participatory Governance: An Introduction’ in Carmen Malena (ed), *From Political Won't to Political Will: Building Support for Participatory Governance* (Kumarian Press 2009) 19. [↑](#footnote-ref-103)
104. James Rauch and Peter Evans, ‘Bureaucratic Structure and Bureaucratic Performance in Less Developed Countries’ (2000) 75(1) Journal of Public Economics 49, 51. [↑](#footnote-ref-104)
105. Issa Shivji, ‘Constructing a New Rights Regime: Promises, Problems and Prospects’ (1999) 8(2) Social & Legal Studies 253, 262. [↑](#footnote-ref-105)
106. Peter Uvin, ‘From the Right to Development to the Rights-based Approach: How ‘Human Rights’ Entered Development’ (2007) 14(4) Development in Practice 597, 600. [↑](#footnote-ref-106)
107. A possibility raised in Matthew Craven, ‘Assessment of the progress on adjudication of economic, social and cultural rights’ in John Squires, Malcolm Lanford and Bret Thiele, *The Road to a Remedy: Current Issues in the Litigation of Economic, Social and Cultural Rights* (University of New South Wales Press 2005) 27. [↑](#footnote-ref-107)
108. Jeremy Perelman and Katharine G. Young, ‘Rights as Footprints: A New Metaphor for Contemporary Human Rights Practice’ (2020) 9Northwestern University Journal of International Human Rights 27. [↑](#footnote-ref-108)
109. Dan Banik, ‘Human Rights for Human Development: The Rhetoric and the Reality’ (2012) 30(1) Nordic Journal of Human Rights 4, 4 [abstract]. [↑](#footnote-ref-109)
110. Seminal works include Miguel Centeno, Atul Kohli and Deborah Yashar (eds) *States in the Developing World* (Cambridge University Press 2017); James Robinson and Daron Acemoglu, *Why Nations Fail: The Origins of Power, Prosperity and Poverty* (Profile 2012); and Jonathan Di John and James Putzel, *Political Settlements: Issues Paper* (Governance and Social Development Research Centre 2009). [↑](#footnote-ref-110)
111. World Bank, *The political economy of policy reform: Issues and implications for policy dialogue and development operations* (World Bank 2008). [↑](#footnote-ref-111)
112. Alan Whaites, *The Beginner’s Guide to Political Economy Analysis (PEA)* (National School of Government International2017) 4. [↑](#footnote-ref-112)
113. Verena Fritz, Brian Levy, and Rachel Ort (eds) *Problem-Driven Political Economy Analysis: The World Bank’s Experience* (World Bank 2014. 289). [↑](#footnote-ref-113)
114. Foreign*,* CommonwealthandDevelopment Office, *Understanding Political Economy Analysis and Thinking and Working Politically* (Foreign*,* CommonwealthandDevelopment Office 2023). [↑](#footnote-ref-114)
115. USAID, *Thinking and Working Politically through Applied Political Economy Analysis: A Guide for Practitioners* (USAID 2018). [↑](#footnote-ref-115)
116. Department of Foreign Affairs and Trade, *Political Economy Analysis and Adaptive Management: Good Practice Note* (Department of Foreign Affairs and Trade 2023). [↑](#footnote-ref-116)
117. Department for International Development, *Political Economy Analysis How to Note* (Department for International Development 2009) 4. [↑](#footnote-ref-117)
118. ibid 8. [↑](#footnote-ref-118)
119. Suma Chakrabati, Permanent Secretary of DFID, as quoted in Nigel Thornton and Marcus Cox, *Review of the Uptake of the Drivers of Change Approach* (Agulhas Development Consultants 2005) 2. [↑](#footnote-ref-119)
120. See e.g. Tom Lavers and Sam Hickey, *Investigating the Political Economy of Social Protection*

*Expansion in Africa: At the Intersection of Transnational Ideas and Domestic Politics* (Effective States and Inclusive Development Research Centre 2015). [↑](#footnote-ref-120)
121. Tim Kelsall, *Thinking and Working with Political Settlements* (Overseas Development Institute 2016). [↑](#footnote-ref-121)
122. David Hudson and Adrian Leftwich, *From Political Economy to Political Analysis* (Development Leadership Programme 2014) 21. [↑](#footnote-ref-122)
123. See generally OECD Development Assistance Committee, *Lessons Learned on the Use of Power and Drivers of Change Analyses in Development Cooperation* (2005) <http://www.gsdrc.org/docs/open/DOC82.pdf> accessed 19 October 2023. [↑](#footnote-ref-123)
124. Department for International Development, *Lessons Learned: Planning and Undertaking a Drivers of Change Study* (Department for International Development 2005). [↑](#footnote-ref-124)
125. David Booth, ‘Introduction: Working with the Grain? The Africa Power and Politics Programme’ (2011) 42(2) International Development Studies Bulletin 1, 7. [↑](#footnote-ref-125)
126. Verena Fritz and Brian Levy, ‘Problem-Driven Political Economy in Action: Overview and Synthesis of the

Case Studies’ in Fritz, Levy and Ort (eds) (n 113 ) 1 at 8. [↑](#footnote-ref-126)
127. David Hudson and Heather Marquette, ‘Mind the Gaps: What’s Missing in Political Economy Analysis and Why it Matters’in Alan Whaites and others, *A Governance Practitioner’s Notebook: Alternative Ideas and Approaches* (Organisation for Economic Co-Operation and Development 2015)67. [↑](#footnote-ref-127)
128. Niheer Dasandi and others, ‘What Does the Evidence Tell us About ‘Thinking and Working Politically’ in Development Assistance?’ (2019) 7(2) Politics and Governance 155, 163. [↑](#footnote-ref-128)
129. Paul Hunt and others, ‘Implementation of Economic, Social and Cultural Rights’ in Scott Sheeran and Nigel Rodley (eds), *Routledge Handbook of International Human Rights Law* (Routledge 2013) 550. [↑](#footnote-ref-129)
130. Hafner-Burton (n 50) 176. [↑](#footnote-ref-130)
131. Saiz (n 2) 282. [↑](#footnote-ref-131)