Accessing Economic and Social Rights under Neoliberalism: gender and rights in Chile

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ABSTRACT

There is now a general consensus regarding the importance of social and economic rights within development and, recently, the language of women’s human rights has been adopted by organisations that focus on gender and development and draw mainly upon economic and social analysis. Despite some limitations from a gender perspective, human rights instruments such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) can offer an important focus for such groups to claim these rights. Nevertheless, the challenge of upholding treaty obligations and guaranteeing rights to all citizens remains, particularly within the context of the neoliberal reforms that have been widely implemented in both the North and the South. Drawing on the case of Chile, this paper will consider how access to certain rights, including the rights to social security and health, can be made more difficult for some women and men as a consequence of processes following trade liberalisation and health sector reforms. An analysis of power relations is central to understanding the failure of states to guarantee an enabling environment for women’s enjoyment of their social and economic rights, as many women remain excluded from decision-making processes within policy arenas.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides an important framework within which it is possible to consider rights-based approaches to development, particularly from a gender perspective. It has been argued that an emphasis on rights can be used as a vehicle for increasing the accountability of governments to their citizens,¹ and activism around the ICESCR can be used to pressure governments to fulfil the obligations laid out in the covenant. One hundred and fifty-one states have currently ratified the ICESCR and therefore have a duty under international law to do so.² The ICESCR, first ratified in 1966, clearly predates current rights-based approaches to development. Indeed, many international development agencies have deliberately distanced their rights-based work from the ICESCR because of its historical association with communism during the cold war era and the pivotal role it played in the
struggle fought by many radical Third World states within the UN to establish a New International Economic Order (NIEO) that would result in a global redistribution of resources. While the extent to which this was achieved through the Declaration on the Right to Development in 1986 is subject to debate, present day rights-based approaches advocated by development organisations can often be defined through their lack of reference to the Right to Development and the ICESCR. Nevertheless, the importance of the legal obligations of states that have ratified the ICESCR cannot be underestimated and the covenant therefore does provide an essential starting point for looking at these issues.

In recent decades the ascendancy of neoliberalism has presented new challenges in relation to governments’ ability to guarantee these rights to all citizens. Neoliberal reform programmes promoting market liberalisation, privatisation and deregulation have been implemented in a wide range of countries in both the North and the South, leading to massive restructuring of economies. Liberalisation of trade and deregulation of labour markets has opened economies to increased foreign investment and has resulted in an expansion of exports in many Southern countries. These developments have brought new prospects for certain sectors of societies—for example, new employment opportunities, especially for women, have arisen as a result of export expansion. Indeed, in some instances this export expansion has been linked to poverty reduction. Nevertheless, many of these new forms of employment are often subject to discrimination and exploitative working conditions and workers are in effect denied access to welfare and labour rights as outlined in the ICESCR. The gender division of labour means that women are more likely to be located in these precarious forms of employment than men.

At the same time there have been huge social and economic costs associated with neoliberalism, particularly for women. Cuts in public expenditure and the privatisation of health, education and welfare services combined with women’s increased participation in the paid economy have placed increased pressure on women’s ‘double burden’ resulting in a ‘squeeze on care’. Moreover, as an increased number of countries in Latin America, including Chile, experience a shift from health systems based on social insurance, whereby risks are spread across the population, to systems based on individualised private health insurance, concerns have arisen about the ability of large sectors of the population to secure their right to health.

These processes of change raise important questions about the ability of governments to fulfil their obligations as laid out in the ICESCR. To what extent are these processes gendered? And what differential impacts might they have on the rights of women and men? If some citizens are experiencing a greater violation of their economic and social rights than others, what can the ICESCR offer to these marginalised groups? Moreover, in an era where international financial institutions such as the World Bank and the International Monetary Fund play a central role in establishing the agenda for social policy at a national level, how far can citizens really claim their rights if they remain excluded from policy debates? Drawing on the case of Chile, this paper will seek to address these questions.
The first part of the paper provides a broad overview of the ICESCR and outlines the processes of operationalising rights as set out in the covenant. It also briefly examines feminist critiques of the ICESCR. The second part of the paper highlights some of the ways in which groups of women workers are being denied access to many of the rights within the ICESCR, particularly the right to health. Chile is an ideal case study, since it is often considered as the ‘neoliberal success story’ and provides a model for welfare provision across Latin America. Finally, drawing on the experiences of Chilean NGOs working in the health sector, the analysis will consider how citizens can use the ICESCR to claim their rights, given the limitations of participatory mechanisms in Chile.

The International Covenant on Economic, Social and Cultural Rights

The ICESCR states that men and women have equal right to the enjoyment of all the rights it sets out. These rights include:

- the right to work, including the opportunity to gain a living by work which is freely chosen (Article Six);
- the right to just and favourable conditions of work, including fair and equal remuneration, safe and healthy working conditions and reasonable limitation of working hours (Article Seven);
- the right to form and join trade unions (Article Eight);
- the right to social security (Article Nine);
- the right to an adequate standard of living, including adequate food, clothing and housing (Article Eleven);
- the right to the highest attainable standard of physical and mental health (Article Twelve).

Special mention is made of the family, which should be accorded ‘the widest possible protection and assistance’, while ‘marriage must be entered into with the free consent of intending spouses’ (Article Ten).8

This covenant is considered to impose three types of obligations on states that are party to it (termed ‘states parties’):9 the obligations to respect, protect and fulfil the rights enumerated in it. The obligations on states parties are qualified in Article Two (i) of the ICESCR. This says that ‘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 available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant’. Article Two (ii) sets out the principles of equality and non-discrimination in relation to the provision of covenant rights. The implication of the phrases ‘to the maximum of available resources’ and ‘with a view to achieving progressively’ is to allow a state to realise its obligations over an (indefinite) period of time. Considerable debate surrounds the question of the nature of states parties’ obligations and the broader question of justicability of economic and social rights.10 The Committee on Economic, Social and Cultural Rights (CESCR)
monitors state parties’ compliance with the covenant. Decisions made by the CESC are not legally binding and it lacks the authority to drive any political reform to ensure state parties’ commitments to the ICESCR are upheld.

Feminist critiques of the ICESCR

It has been suggested that the ICESCR is of limited use to women given its inherent gender bias. Feminist critiques have focused on a number of limitations. First, the covenant incorporates a limited conceptualisation of human rights as applying only to the public sphere of the market and the state. Women are identified as primarily mothers and dependants of male providers, thus limiting their claims to socioeconomic rights; because male breadwinners are expected to provide for the basic needs of their dependants, women are less able to claim such rights on their own behalf. This has been termed the ‘male breadwinner bias’. This view is reflected in the language of the covenant, which, for example, refers to ‘the right of everyone to an adequate standard of living for himself and his family’ (Article 11). Similarly, critics have argued that many human rights principles are inherently biased against women, since they operate primarily in the public sphere and ignore what takes place in the private sphere, where many abuses of women’s rights actually take place.

Furthermore the ICESCR does not touch upon the economic, social and cultural contexts in which most women live, since the crucial economic and social power relationship for many women is not one directly with the state but with individual men, whose authority is supported by patriarchal state structures. It fails to recognise the needs of the many women who do not participate in the paid economy, or participate as unpaid family labour in family businesses and who are thus not covered by the rights conferred on workers who earn wages in the paid economy. For example, although the right of women to paid maternity leave is recognised, this only applies to women who are already integrated into the paid economy as independent earners.

In response to some of these limitations the UN Division for the Advancement of Women (DAW) set up an Expert Group in 1997 in an attempt to consider how to advance women’s social and economic rights. To date work is continuing as a number of feminist organisations around the world focus attention on the ICESCR as an arena for activism, both in terms of improving the convention as a normative framework, and in using the reporting mechanism to ‘name and shame’ governments. Despite the limitations of the ICESCR it can still offer women’s organisations important mobilising opportunities since, as Beetham argues, it ‘offers internationally authorised discourse to the deprived to legitimate their own struggles for their realisation’.

The challenge of guaranteeing rights

One of the key challenges presented by the ICESCR is that of operationalising the covenant and ensuring that the rights laid out in it are guaranteed to all
citizens. Much debate surrounds the question of how states can do this in practice and what the obligations laid out in the covenant really mean. To this end the CESCR was established in 1985, though as stated earlier its role is limited. However, decisions made by the CESCR are not legally binding and it lacks the authority to drive any political reform to ensure state parties’ commitments to the CESCR are upheld.

One important area of work of the CESCR is the issuing of General Comments. These provide an authoritative substantive interpretation of the covenant and its application to issues of concern. One such area is that of public services, particularly in the context of the cutting back of public expenditure in the current era of neoliberal reforms. In their proceedings the CESCR have clarified that the concept of ‘progressive realisation’ in the ICESCR does not permit the perpetuation of economic injustice and disparity. States are required to take steps continuously to improve people’s enjoyment of economic, social and cultural rights. Moreover, the principles set out in General Comment Three in theory prohibit a government reducing basic public services if this policy is assessed to be detrimental to the enjoyment of the rights in question. Some commentators are hopeful that they will thus provide states that are party to the treaty with some defence against the imposition of neoliberal economic reforms as conditions of loans from the IMF and World Bank. There is currently an open-ended UN Working Group responsible for looking at the relationship between Structural Adjustment Programmes and Economic, Social and Cultural Rights. However, there is no international court that can hold states (or international financial institutions) accountable for violations of economic, social and cultural rights.

The only international implementation mechanism is via the system of reporting to the CESCR. Those states which have ratified the covenant are expected to submit a report to the ICESCR within two years of ratifying it, and then provide a follow-up report every five years. States are expected to provide detailed information on the degree to which rights are implemented and areas where difficulties have occurred. Government representatives are expected to answer questions about the report to the ICESCR. ‘Concluding observations’ are issued by the committee regarding compliance with the covenant in the reporting state. These are made public at the end of each session, but are not legally binding. National and international NGOs and community-based organisations (CBOs) are able to submit information to the committee on the extent to which a state has complied with the covenant (so-called ‘shadow reports’) and they can present their views directly to the committee. It is not, however, possible for individuals or groups who feel that their rights under the covenant have been violated to submit formal complaints to the CESCR.

The case of Chile

Chile ratified the ICESCR in 1972 under the leadership of the Socialist President Salvador Allende. While all human rights were suspended under the military dictatorship of General Pinochet between 1973 and 1990,
following the return to more democratic forms of government in 1990 attempts have been made to restore human rights. Indeed, the CESCRI have congratulated Chile on the progress that has been made in restoring rights to citizens in their Concluding Observations on Chile’s latest Report to the committee in 2004. The committee do raise concerns about a lack of progress in other areas, particularly the lack of an adequate minimum wage, the low level of women working in the paid economy (the rate of female labour force participation is around 42% and is one of the lowest in Latin America), and the inherent gender bias in the reformed pension system.

In addition, the committee raise concerns regarding the inherent gender bias in the private health insurance companies, discussed in more detail later, although no mention is made of the particular difficulties faced by informal workers, as we shall see. A shadow report was also presented to the committee by the Santiago-based feminist human rights NGO, La Morada Women’s Development Corporation, in conjunction with human rights experts from the USA. However, the main focus of the shadow report was the violation of women’s sexual and reproductive health rights in relation to Article 12. These are clearly a grave cause for concern but will not be specifically discussed here.

Labour market deregulation and the growth of informal work

The ascendancy of neoliberalism across Latin America over the past few decades has presented important new challenges to governments’ in guaranteeing social and economic rights to their citizens. While new employment opportunities have developed, thus facilitating citizens’ right to work and increasing individual autonomy for many female workers, at the same time there are also new challenges when viewed from a rights perspective. As the discussion of the Chilean case study will show, workers are often subject to discrimination and exploitative working conditions, thus violating their rights to just and favourable working conditions as laid out in the ICESCR. The current gender division of labour in Chile also means that the majority of workers in these precarious forms of employment are women.

An integral part of neoliberal reforms has been a deregulation of labour markets in order to increase foreign investment, for example through lowering labour costs and introducing more flexible forms of working. This has been a prominent feature of reforms in much of Latin America, including Chile, where new labour codes have facilitated the replacement of indefinite contracts with fixed-term contracts, and have promoted the use of temporary, part-time, seasonal and hourly contracts in hiring and permitted restrictions on the right to strike, collective bargaining and the organisation of workers.

As a consequence of such reforms there has been an unprecedented expansion of the informal economy in recent years. An International Labour Organisation (ILO) study estimated that 84 out of every 100 jobs created in Latin America during the 1990s were in the informal economy. In addition there has been a dramatic restructuring of production and
distribution in many key industries, characterised by outsourcing or subcontracting through global commodity chains. The textile and clothing industries in Chile have undergone these kinds of transformations and, following processes of restructuring since the early 1980s, much of the actual make up of garments is subcontracted and in many cases garments are eventually made up by home-based workers employed on an informal basis. Although the connection between this growth of informal work and the large numbers of women entering paid employment is still subject to debate, what is clear is that the majority of informal workers, and especially home-based workers, are women. In Chile there are around 80,000 home-based workers, around 66,000 of whom are women, and over half of these women are aged between 25 and 44 years old. Home-based work is work that is done in or around the home for a cash income, although within this broad definition different categories of home-based workers can be identified.

The marketisation of health care

Within the context of the increased marketisation of health care the failure of governments to extend the right to fair and equal remuneration to all workers is an important concern, since access to health care is no longer equally distributed. Health sector reforms in Chile are continuing to move towards replacing the system of social insurance, where risks are shared across the population, to a system of individualised private insurance, where users buy a health plan and make additional co-payments for any extra services they require.

Chile has had a mixed insurance system since the mid-1980s. Workers can choose between the public (FONASA) and private (ISAPRES) sector to contract their mandatory 7% health insurance contributions. Within FONASA entitlements depend upon earnings-related contributions and contributions finance the benefits provided. Around 60% of the population is in FONASA, while the majority of others are either in an ISAPRES or are covered by special social insurance funds, such as those for the armed forces and police. A small percentage of the population is not covered by any health insurance plan.

Critics have warned that the marketisation of the health sector can have important implications for poverty and equality issues. This is becoming manifest in Chile. One example is the problem of 'cream-skimming', which remains an issue within the ISAPRES, whereby those with lower risks are 'creamed' by the private sector, leaving those with higher risks in the public sector, which lacks the resources to adequately care for all those who need it. Even within the ISAPRES the system is highly stratified and many middle-income users often lack sufficient coverage in their plans, especially for more complex health services.

Recent reforms in the health sector have focused on improving access to health care for the lowest income groups and in 2002 the Plan for Universal Care with Explicit Guarantees (AUGE) was introduced. This was intended to improve access to and quality of services for more complex health conditions and 56 conditions were included in the proposals. Health care for these
selected conditions will be free to indigents and the lowest income groups, while the remainder of the population have to pay a proportion of the cost, although additional co-payments may be applicable. Since July 2005 treatment for 25 conditions has been guaranteed and the government hopes that treatment for the remaining conditions will be guaranteed by the end of 2007. While the Plan AUGE received positive support from the CESCR in their Concluding Observations, it has been criticised by health activists, particularly from a gender perspective. In the shadow report submitted by La Morada and colleagues to the CESCR they argue that the 56 health problems included in the AUGE exclude many of the conditions that principally affect women, such as osteoporosis, breast and ovarian cancer and depression. In addition, while the AUGE will in theory improve access for those registered as indigents, the system of co-payments will continue to discriminate against lower income households and therefore women will be disproportionately affected.

Informal work and access to health insurance

Given the nature of informal work—ie that workers have no regular employment contract, wage agreement or regular working hours, and that their work is invisible to others, including policy makers and government agencies, the majority are excluded from non-wage benefits such as health insurance, pensions, paid sick leave and maternity leave. Since women are more likely to be employed in this type of work, this suggests that these processes of exclusion are gendered and that women are less able to access these benefits than men.

The Chilean home-based workers NGO, CECAM, interviewed over 1500 workers, the majority of them female, and found that most of the respondents did not have any sort of health plan. The variable nature of sub-contracted work and salaries makes it difficult for households to make regular contributions required by health insurance plans. In some instances women were registered as a dependant of their husbands, although this points to the issue of ‘male breadwinner bias’. However, in the majority of cases the women did not have male partners so had to register as indigents. Indigents are entitled to access basic services, but a number of important exclusions exist. For example, they are not entitled to income subsidies during pregnancy—three months before and two months after the birth of the baby—and they are also excluded from illness-related income subsidies, etc. Many of the women interviewed felt that registering as an indigent lowered their self-esteem and that they were badly treated by health staff because of their low status. The women believed that the health workers saw them as ‘lazy women’ who stayed at home rather than earning a living. This was not the case but they could not admit to having a job since this would disqualify them from accessing the system. As well as women being denied their rights, this links to broader issues of social exclusion and points to the ways in which many poor people can associate bad experiences of the health care system with their own poverty and powerlessness.
In an extensive study of informal workers conducted by the Centro de Estudios de la Mujer, a feminist research institute based in Santiago, the findings demonstrated that the majority of part-time workers, particularly in the financial and commercial sectors, were women and that they failed to earn regular salaries. Many of the women interviewed were employed to sell financial products and were asked to work fixed hours, but were paid on a commission basis according to the number of financial products they sold. They did not earn additional money for working overtime, but often needed to work beyond the contracted hours in order to meet targets set by the company and earn sufficient income to live off. Similarly, home-based workers in the clothing industry worked long hours that surpassed the normal working week of 48 hours in Chile. In periods of high demand the women often worked through the night and over the weekend in order to supply clothing. Nevertheless, since they were paid on a piece-work basis, they did not receive overtime payments for the additional hours. These conditions clearly disregard the rights laid out in the ICESCR, most notably the right to just and favourable working conditions and fair remuneration. In addition, the majority of part-time workers interviewed lacked formal contracts, working instead according to verbal agreements, and so were not entitled to any form of social protection or health insurance, thus contravening the right to social security.

While special mention is made in the ICESCR of the family, which should be accorded ‘the widest possible protection and assistance’, it seems that in reality governments are unable to fulfil this obligation, and many households where workers are employed in the informal economy face increasing vulnerability and are unable to protect themselves against risks such as poor health. Studies have shown that in reality such households manage the cost of sickness by extending the threshold of seriousness at which they seek treatment. This implies an absorption into the household of the care and management of such individuals. The prevailing gender division of labour means that it is generally women who absorb this cost.

**Gender bias in access to health care**

Access to private health insurance in Chile is gendered in a number of ways. First, there is a large gender gap in wages—which in itself contravenes Article Seven of the ICESCR, the right to fair and equal remuneration. Chilean women in all socioeconomic groups earn up to 30% less than men. Research indicates that the gender gap in wages is higher in the informal economy than in the formal economy. The need to overcome this gender gap in wages has been highlighted by the CESCR in their Concluding Observations on Chile’s 2004 report to the committee. The CESCR also commented on the need to raise the minimum wage so that workers can achieve a better standard of living.

Women’s lower wages have been identified as a key constraint in limiting women’s access to the private health insurance companies, the ISAPRES. The cost of health plans is generally higher for women of all age groups than
for men of the same age, but for women of reproductive age the cost of a health plan is around three times that for a man.\(^4\) Not surprisingly, ISAPRES members are predominantly men aged between 25 and 49 and in 2001 only 32\% of ISAPRES members were female.\(^5\) Yet, as out-of-pocket and other health-related expenditure rises, the implications of this wage gap go beyond limiting women’s access to the private sector.

In addition, gender bias in accessing credit means that women may be unable to take out financial loans to pay for health care and this can also affect decisions taken by the ISAPRES companies about whether to accept users who may pose a financial risk. In an extensive study of informal workers carried out by the Centro de Estudios de la Mujer (CEM) a feminist research institute based in Santiago, this emerged as an issue. As one part-time worker in the financial sector explained:

> We are discriminated against and . . . are looked down on. At a bank, if you go and ask for a loan they ask why you are only a sales person. There is an important social cost that you have to bear, there are problems with getting a loan and also problems with joining an ISAPRE. The worst is if you are a woman, and worse still if you are a pregnant woman, a pregnant financial salesperson is the most discriminated against. Banks also discriminate against us because of our variable income.\(^6\)

These constraints clearly raise concerns about women’s access to health care and to use the health providers of their choice. Ultimately these processes restrict women’s potential to claim their right to enjoy the highest attainable standard of physical and mental health, as stated in the ICESCR. Indeed, the CESCO expressed concern about the inherent gender bias in the ISAPRES in their concluding observations on the Chile Report to the ICESCR, emphasising the need to surmount this.\(^7\) It is also an issue that was highlighted in the shadow report to the ICESCR presented by La Morada.\(^8\)

**New occupational health risks**

The right of workers to the highest attainable standard of physical and mental health is also challenged by many of the new forms of employment that have developed over the past few decades. While historically men have been more at risk from occupational health hazards, the changing nature of employment has created new and different risks for women. More importantly, since women are less likely than men to have a contract, they are unlikely to be eligible for sick pay and are not covered by Law 16.744, which legislates against work-related illness and accidents. This also means that any occupational health problems that do arise for this sector of the population are not recorded and this has important policy implications.\(^9\)

In the CEM study of informal workers many of the women interviewed reported that long working hours were having negative impacts on their sleeping and eating habits, which clearly have important implications for both physical and mental health and well-being. Women workers,
particularly in the commercial and financial sectors, were being asked to work for extensive periods of time to fit in with the demands of the service sector—for example shopping centres regularly open for 24-hour periods, particularly at weekends and over public holidays.\(^6^0\) While many men are also expected to work long hours, given the relatively rigid gender division of labour in Chile they do not have the additional caring responsibilities that many women have.\(^6^1\) This ‘double burden’ means that women often have little time to recuperate after working extended shifts or night shifts. Many of the women interviewed also reported repetitive strain injuries resulting from the nature of their work, such as data inputting, as, in order to earn a decent salary, they had to reach certain targets and were often unable to take breaks if they wanted to complete their work on time.\(^6^2\)

The expansion of horticultural exports in Chile and other parts of the region has also introduced new health hazards and increased workloads.\(^6^3\) The high use of pesticides can mean workers face a range of physical and mental health risks, including nausea, birth defects and acute depression.\(^6^4\) Studies from Chile have shown that there is a high incidence of alcohol and drug consumption (prescription and non-prescription) among temporary fruit pickers (tempereras) and high rates of mental illness and higher rates of child malformation have been observed in the areas where fruit growing is concentrated.\(^6^5\) If, as outlined earlier, depression and mental health problems are excluded from the AUGE, this is a particular cause for concern.

There are around 350 000 fruit workers in Chile, 85\% of whom are temporary workers and, of these, 52\% are female and only 5\% of women have permanent jobs.\(^6^6\) While around 18.6\% of male fruit workers do not have a contract, this rises to 24\% for women.\(^6^7\) Moreover, around half of tempora\(\text{ra}\) households have no members with permanent stable employment and have per capita household incomes below the poverty line.\(^6^8\)

Furthermore, there are important urban–rural disparities in the Chilean health system and many rural health services are relatively under-funded. One study has shown that municipalities allocating the highest per capita funds are not the ones with the greatest health needs, and out-patient and in-patient medical care shows considerable geographic variations.\(^6^9\) Research has shown that rural health care resources are not always allocated in transparent and accountable fashion, whereas this is less likely to occur in urban areas. In addition, it can be problematic attracting and maintaining doctors and health professionals to work in rural health services, particularly those in more remote locations. These issues raise important concerns regarding the specific ability of health services to guarantee the rights of rural users.

**Participation in the policy making processes**

A final issue that requires consideration is how far and in what form women are able to participate in policy-making arenas. If states are to guarantee an enabling environment for women’s enjoyment of their social and economic rights it is essential that all women are included in decision-making processes.
However, the recent shift towards globally applied templates for social policy designed by international financial institutions such as the World Bank often leaves little room for manoeuvre at a national level. Although much emphasis is now placed on citizen participation in the policy process, and governments do have some degree of flexibility in how they implement these global templates, it is not always clear how states are able to simultaneously uphold their obligations to guarantee the social and economic rights laid out in the ICESCR.

There are clear contradictions between the concept of citizen participation as it is presented in much neoliberal thinking and the notion of economic and social rights as conceptualised in the ICESCR. Under neoliberalism the concept of civil society, and by extension the concept of participation, has been transformed. It has taken on new meaning and importance, replacing political society as the key site of political struggle. Political society actors such as trade unions and political parties are replaced by voluntary associations and non-governmental organisations, few of whom are democratically accountable or representative. Power differences and class struggles within civil society are no longer an issue and civil society has become a mere technical tool where citizens can be mobilised to deliver services. Notions of citizenship have been reconfigured as the values, norms and language of market rationality become embedded. This has clear implications for many social and economic rights as they are no longer the responsibility of the state but have become commodities available for purchase by individual citizens in the marketplace. This raises important questions regarding the impact that women’s organisations mobilising around rights issues can have.

Concerns around women’s health issues were raised by NGOs in their shadow report to the CESCR and women health activists have campaigned around the issue of gender bias in the health sector reforms with mixed results. The top-down nature of the current participatory mechanisms has meant that citizens are unable to hold the state accountable and there has been a lack of transparency in decision making regarding the health sector reforms. Nevertheless, important inroads have been achieved. Gender bias in the health sector has become an issue of public concern widely debated in the national media.

Moreover, the success of women’s organisations in other countries and regions suggests that there is some cause for optimism. Groups are constantly identifying new entry points for mobilising around economic and social rights. For example, gender budget initiatives in a number of countries have been a critical tool for NGOs and women’s activists to use in promoting women’s economic and social rights. As Helena Hofbauer argues, drawing on the case of Mexico, ‘budget analysis can help quantify the cost of the provision of specific rights and analyse the resource allocation accordingly’.

If the ICESCR is to do more than offer women’s organisations a framework for guaranteeing economic and social rights activism around the covenant it needs to be linked more broadly to the development of alternative economic and social policies such as gender budget initiatives. Citizens need to continue...
to try and make states more accountable. Mobilisation around the ICESCR offers another tool with which to justify such campaigns.

Notes
3 Cornwall & Nyamu-Musembi, ‘Putting the “right-based approach” to development into practice’.
9 ‘States parties’ is the term used within human rights treaties to refer to governments who have signed up to the treaties.
16 Ibid.
17 Beetham, ‘What future for economic and social rights’.
22 Elson & Gideon, ‘Organising for women’s economic and social rights’.
27 Other factors have also contributed to this process. See M Carr, MA Chen and J Tate, ‘Globalisation and home-based workers’, _Feminist Economics_, 6 (3), 2000, pp 123 – 142 for further discussion of this.
29 UNIFEM, _Progress of the World's Women_.
40 _Ibid_. The NGO responsible for conducting the research in Chile was AnaClara but following internal changes a new organisation, CECAM (Centro de Educación y Capacitación a la Mujer) has now emerged and is responsible for continuing this work.
43 Author’s interview with Miriam Ortega Aaraya, CECAM regional co-ordinator, 25 July 2003.
45 R Todaro & S Yañez (eds), _El Trabajo se Transforma: Relaciones de Producción y Relaciones de Género_, Santiago: Centro de Estudios de la Mujer, 2004. It is important to differentiate between different types of part-time work that offer different sets of advantages and disadvantages to women and men and not to confuse, for example, flexible working hours for employees with imposed flexibility by firms. Much of the expansion of flexible working in Chile, particularly in the service, financial and agricultural sectors, has been of the latter sort.
50 Cart et al, ‘Globalisation and home-based workers’.
51 Comité de Derechos Económicos, Sociales y Culturales, point 36.
52 _Ibid_, point 38.
54 Pollack, ‘Equidad de género en el sistema de salud chileno’.
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55 Ibid.
56 Díaz, ‘La flexibilización de la jornada laboral’.
57 Comité de Derechos Económicos, Sociales y Culturales, point 56.
60 Díaz, ‘La flexibilización de la jornada laboral’.
62 Díaz, ‘La flexibilización de la jornada laboral’.
65 Barrientos, ‘The hidden ingredient’.
66 Ibid.
68 Ibid.