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EUROPEAN HUMAN RIGHTS LAW FOR A DIGITAL ECONOMY: A RIGHT TO FINANCIAL INCLUSION?

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ABSTRACT: In the new digital economy, technology should help promote access to affordable finance, however it is being used to exclude as well as include, creating an urgent challenge for lawmakers. This paper explores the role of human rights discourse in emerging debates about digital financial inclusion, focusing on two questions: first, how are recent technological, legal, and quasi-legal developments impacting financial inclusion? And second, can existing human rights frameworks support a right to financial inclusion? The article begins by examining the impact of new technologies on financial inclusion. Next, it discusses how recent developments – namely the UN Sustainable Development Goals and the EU AI Act – are reigniting vital discussions about financial inclusion. It then considers whether financial inclusion is a human right, examining international and European human rights frameworks. Finally, it concludes that while a right to financial inclusion cannot yet be recognized, the EU – with the legacy of its inception as a primarily economic union – could be a natural incubator for such a right.

KEYWORDS: Digital economy; financial inclusion; human rights.

DIREITOS HUMANOS NA EUROPA PARA UMA ECONOMIA DIGITAL: O DIREITO À INCLUSÃO FINANCEIRA?

RESUMO: Na nova economia digital, a tecnologia deveria promover o acesso a finanças acessíveis, no entanto, está sendo utilizada tanto para excluir quanto para incluir, criando um desafio urgente para os reguladores. Este artigo explora o papel do discurso de direitos humanos nos debates emergentes sobre inclusão financeira digital, com foco em duas questões: primeiro, como os recentes desenvolvimentos tecnológicos, legais e quase legais estão impactando a inclusão financeira? E, segundo, os atuais *frameworks* de direitos humanos podem apoiar um direito à inclusão financeira? O artigo começa examinando o impacto das novas tecnologias na inclusão financeira. Em seguida, discute como desenvolvimentos recentes – especialmente os Objetivos de Desenvolvimento Sustentável da ONU e o *EU AI Act* – estão reacendendo discussões essenciais sobre inclusão financeira. Em seguida, considera se a inclusão financeira é um direito humano, analisando *frameworks* internacionais e europeus de direitos humanos.

Finalmente, conclui que, embora um direito à inclusão financeira ainda não possa ser reconhecido, a UE – com o legado de sua origem como uma união primariamente econômica – poderia ser um incubador natural para tal direito.

PALAVRAS-CHAVE: Economia digital; inclusão financeira; direitos humanos.

1. Introduction

Financial inclusion is emerging as one of the most significant challenges faced by policymakers in the new digital economy,[1] particularly in the age of Artificial Intelligence (AI).[2] Indeed, the (fairly universal) goal behind ideals of financial inclusion[3] – that everyone should have access to useful and affordable financial products and services[4] – appears intuitively more attainable in a world where ambitious technological developments, namely in the field of AI, are driving globalisation and making the world progressively smaller (McMahon, 2001).

At the same time, it has become increasingly clear that the benefits of new technologies can be – and often are – unequally distributed between individuals, communities, and countries, particularly regarding economic development. This has prompted policymakers to consider legal and regulatory mechanisms that can counteract these tendencies and prevent the aggravation of pre-existing inequalities, namely in access to the financial system.[5] Additionally, it has become progressively apparent that technological development can also threaten (as well as promote) financial inclusion –

1 Digital economy is the area of the economy that encompasses the 'vast new array of possible combinations' generated by the growing digitalisation of information and the advent of the Internet (Carlsson, 2004, p. 245).

2 The features of this new 'age of AI' are discussed, *i.a.*, *in* CAO, 2022. The definition of AI itself is highly controversial given the difficulties of determining exactly what types of algorithmic technologies are truly 'intelligent' (and what types of algorithmic technologies are not). For a discussion of the challenges of defining AI, see, *i.a.*, Wang, 2019.

3 Although international financial regulation frameworks have not traditionally concerned themselves with financial inclusion goals – at least explicitly – several emerging economies have given explicit financial inclusion mandates to their financial regulators and supervisors (Brummer, 2024, p. 6). Additionally, several international standard-setters have recently put forward principles and statements in this area: see, *e.g.*, the G20 Principles for Innovative Financial Inclusion (Available at: https://www.gpfi.org/sites/gpfi/files/documents/G20%20Principles%20for%20Innovative%20Financial%20Inclusion%20-%20AFI%20brochure.pdf. Access on: 31 Aug. 2024) and the World Economic Forum Shared Principles for an Inclusive Financial System (Available at: https://www3.weforum.org/docs/WEF_Shared_Principles_for_an_Inclusive_Financial_System_2021.pdf. Access on: 31 Aug. 2024).

4 See, briefly, the definition of financial inclusion put forward by the World Bank *in* World Bank Group, 2022.

5 Examples of financial inclusion initiatives put in place in emerging economies include Piloto Drex, a pilot programme for the development of central bank digital currency 'Dex', governed by Resolução BCB 315, de 27 de abril de 2023 and Voto 31/2023 – BCB, and Pix, a state-owned real-time payment system governed by Resolução BCB nº 1 de 12/8/2020 – In Brazil – as well as fast payment system Unified Payments Interface (UPI) – in India.

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and policymakers are increasingly aware that the potential of new technologies for financial exclusion must be considered side by side with their capacity for good.[6]

Two key questions emerge at the forefront of the debates surrounding financial inclusion in the new digital economy. First, how are recent technological, legal, and quasi-legal developments impacting the inclusion/exclusion of individuals and groups from the financial system? Second, can we talk of a human right to financial inclusion?

This article addresses both questions. First, after defining financial inclusion and financial exclusion, it examines the relationship between financial inclusion and technological developments in the new digital economy – particularly those pertaining to AI. Second, it positions recent discussions surrounding new legal and quasi-legal legal frameworks – in particular, the United Nations (UN) Sustainable Development Goals (United Nations, 2015)[7] and the European Union's (EU) new AI Act[8] – as a springboard for examining whether a new right to financial inclusion has emerged (or is emerging) in the context of European human rights law. Third, it engages in this exercise by critically analysing current human rights discourse and international and regional human rights frameworks to flesh out the potential existence of a putative right to financial inclusion.

Ultimately, we argue that the new digital economy has revealed the existence of a close link between financial inclusion and digital innovation – as technological advances have created important new opportunities for financial inclusion (and corresponding new risks of financial exclusion), giving new urgency to debates surrounding the role that laws and regulations can play in facilitating access to the financial system. We argue that the role played by financial inclusion in modern global or international frameworks – chiefly the UN Sustainable Development Goals and the EU AI Act – should prompt discussions about whether financial inclusion can be seen as a human right, particularly within Europe. Then, we argue that while a human right to financial inclusion per se cannot be firmly established now, European and, in

6 See, *e.g*, the FCA's cautious optimism when noting that while 'digital public infrastructure…can play a powerful role in tackling financial inclusion… there are [also] risks' and that it needs to 'bear down on any signs of discrimination or exclusion' arising from these new technologies (Rathi, 2023).

7 On the 'quasi-legal' nature of the UN Sustainable Development Goals (as a UN General Assembly Resolution), see Falk (2005). For a discussion on the UN Sustainable Development Goals specifically, see Vijge *et al*., 2020.

8 Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (EU AI Act).

particular, EU human rights law could be an incubator for the potential recognition of such a right in the future, providing an ideal context for a more grounded discussion of its parameters.

This article adopts an original interdisciplinary perspective to reach findings that are relevant across multiple areas of the law, navigating the underexplored intersection of financial regulation and human rights.[9] At the same time that policymakers in developed economies are still debating whether financial regulators in their jurisdictions should be given explicit mandates to pursue financial inclusion goals,[10] developments in the field of human rights law could be what finally prompts them into action. These findings are also relevant across the globe: while in large part our arguments pertain to European and, in particular, EU human rights law, the fact is that the European human rights framework – as spearheaded by the European Convention on Human Rights (ECHR)[11] and the Charter of Fundamental Rights of the European Union (the Charter)[12] – is widely seen as one of the world's most developed and effective regional frameworks for the protection of human rights, and its influence extends far beyond European boundaries.[13]

This paper is organised as follows: first, it examines the concept of financial inclusion and its relationship with technological advancements in the digital economy; second, it examines the current state of the debate on a potential human right to financial inclusion and methodological approaches to investigate its existence; and third, it turns its attention to international and regional human rights documents to examine whether a right to financial inclusion can be anchored in them. Lastly, concludes by arguing that, while no right to financial inclusion can be presently recognised, elements of its potential emergence can be glimpsed in human rights instruments, with the EU having the potential to act as an incubator for such a right.

9 To borrow from Alston's classic aphorism, the two disciplines are currently like 'ships passing in the night'–focusing on similar or adjacent questions but in large part going on in parallel without speaking to each other (see Alston, 2005).

10 In the UK, for example, the Financial Conduct Authority has recently noted that 'successive governments have decided not to make financial inclusion a statutory obligation for [them]' (see Rathi, 2023).

11 Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR).

12 Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, 391–407 (the Charter).

13 For a discussion of the effectiveness of the European Convention on Human Rights, see, *i.a.*, Helfer, 1993, p. 17, Merrills, 1993, and Tripkovic; Zysset, 2024.

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2. Financial inclusion in the new digital economy

The new digital economy and, namely, the emergence and popularisation of AI technologies have been steadily transforming economic activity, creating challenges for policymakers and regulators that cut across all areas of the law. However, few areas have been as significantly transformed by technology as Finance[14] – which explains why some of the first (sectoral) legislative and regulatory instruments to ever apply to algorithmic technology came from the area of financial regulation, long before the EU AI Act was even contemplated.[15]

So complete has been the transformation of the financial system by technology that it should come as no surprise that recent technological developments also stand to have a significant impact at the entry point to that system. This has prompted discussions about the impact of technology on financial inclusion – and urgent debates about the role that might be played by legal and quasi-legal institutions in furthering financial inclusion goals in the new Digital Economy.[16] This section embraces the first discussion, while setting the tone for the second discussion – but first it examines the meaning of financial inclusion (and exclusion) in more detail.

2.1 Financial inclusion and financial exclusion

Financial inclusion has been defined by the World Bank as access to useful and affordable financial products and services by individuals (World Bank Group, 2022), regardless of their background or income (Rathi, 2023). Indeed, financial inclusion often refers to access to the financial system by 'vulnerable groups' and can be assessed both on individual and household level (Gortsos; Panagiotidis, 2017). By contrast, financial exclusion is used to refer to the inability, difficulty or reluctance to access mainstream financial services, potentially leading to social exclusion, poverty and inequality. Functionally, it can help to think of financial exclusion as the problem – and of financial inclusion as the solution (UK Parliament, 2017). Under this approach, there is no

14 For a summary of how finance has been transformed by technology, particularly in the EU, see, *i.a.*, Expert Group on Regulatory Obstacles to Financial Innovation, 2019.

15 Including, for example, the European Union algorithmic trading regime (for a discussion, see Buczynski *et al.*, 2022).

16 See, for example, the discussions *in* Brummer, 2024, Levitin, 2024, and Weber, 2024.

such thing as financial inclusion paving the way to predatory products and services: access to, or, more rigorously, entrapment by such products and services is, instead, a form of exclusion that financial inclusion (also) attempts to address.[17]

Ultimately, financial inclusion is particularly significant for individuals at the margin of the financial system who struggle to access credit and insurance products and are worse positioned to handle unexpected expenses, emergencies and increases in cost-of-living pressures. Indeed, access to the financial system, in particular savings and insurance, 'helps protect individuals against the economic consequences of health shocks, long-term unemployment and other contingencies' (Queralt, 2016).

2.2 Financial exclusion and technological developments

Discussions of financial inclusion have risen in prominence in recent decades, as the promise that financial exclusion would be solved by the technological advancements underlying the new digital economy began to falter.[18] Indeed, a consensus has begun to emerge that the role played by new technological developments in the inclusion of individuals and groups within the financial system is, at best, ambiguous – and several recent advancements in financial technology ('FinTech') perfectly exemplify both the promises and the perils of new technologies for inclusion or exclusion (Buckley *et al.*, 2021).

On the one hand, FinTech has played an essential role in driving the popularisation of mobile money in Kenya and East Africa (Asongu *et al.*, 2020), in revolutionising the industry of microfinance in rural India (Kandpal; Mehrotra, 2019), and in driving the development of a new Central Bank Digital Currency (CBDC) in Brazil (the Drex) (Ashley; Tan, 2023). Recently, FinTech innovations – and, in particular, AI-driven FinTech innovations – have also brought significant efficiencies to the process of algorithmic credit scoring – *i.e.*, the process of combining AI algorithms with 'alternative' data to assess the creditworthiness of consumers, as a basis for deciding whether they should be given access to credit, and under what conditions (Aggarwal,

17 Similarly, Levitin distinguishes between the aspects of financial inclusion that pertain to the 'unbanked', that is, to the segment of the population without a bank account, and aspects of financial inclusion experienced by the 'underbanked', that is, to the individuals that need to resort to alternative (and often predatory) financial services like payday loans (for a discussion, see Levitin, 2024, p. 117ff). A distinction between the 'unbanked' and the 'unserved' can also be found, for example, *in* Gortsos; Panagiotidis, 2017.

18 For a discussion, in the context of the United States, *see* Levitin, 2024, p. 114-117.

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2021). Crucially, those efficiencies appear to have translated into improved credit access for 'thin-file' and 'no-file' borrowers – respectively, borrowers with little and no information on file – who had been previously excluded from the traditional banking system (Berg *et al.*, 2020).

At the same time, FinTech developments also carry a new array of risks for prospective and current consumers at the borders and within the financial system – aggravating risks of financial exclusion. Through facilitated access to finance, marginalised individuals and communities at the fringes of the financial system can become exposed to predatory business models, products and services that take advantage of a lack of financial education and other sources of information asymmetries, often magnified by pre-existing inequalities. This can result in customers being entrapped into precarious investments (such as dealings in crypto assets), or predatory 'pay day'[19] and 'buy-now-pay-later'[20] lending products (Mills, 2022; Rathi, 2023). In technology-fuelled environments, those risks are further compounded by increased privacy risks, cyber risks – including both operational risks and risks of inherent error[21] – cyber security risks, and even systemic risks.[22] Particularly in the age of AI, those challenges are often also accompanied by risks, resulting from algorithmic bias,[23] whereby self-learning algorithms enhance pre-existing biases in data (either due to data selection mechanisms or to the quality of the data itself) to the detriment of vulnerable and marginalised consumers (Buckley *et al.*, 2021).

The risks resulting from algorithmic bias, that have come to be associated with AI in general – and AI driven-FinTech –, are particularly illustrative of the potential of new technologies for financial exclusion. Specifically, regarding algorithmic credit scoring, there is a very real danger that biases in data (or in the selection of data) can 'generate new avenues for indirect discrimination', especially to the extent that

19 For a balanced discussion of payday lending, see, *e.g.*, Morse, 2011.

20 For a survey analysis of 'buy-now-pay-later' (BNPL) products (and their relationship with financial literacy), *see* Gerrans *et al.*, 2022.

21 Operational risks are the risks caused by 'poor technology, suboptimal monitoring and misfiring infrastructure'; risks of inherent error are the 'endemic' risks of error 'caused by the need for pre-set programming to guide the real-time workings' of algorithms. For a discussion of these risks in the context of algorithmic trading in the financial markets, see, *i.a.*, Yadav, 2019.

22 For a discussion of how new technologies – and, in particular, AI – can create financial systemic risk, see, *i.a.*, Keller *et al.*, 2024.

23 Technically, the risks resulting from algorithmic bias would fall under the category of 'risks of inherent error' discussed previously, but their importance for financial inclusion/exclusion is such that this article highlights them separately.

training datasets are mostly comprised of white/male successful credit applicants (Aggarwal, 2021). Indeed, this could lead to underlying algorithms associating certain protected characteristics (or proxies for those characteristics) with good (or bad) creditworthiness (Aggarwal, 2021) – ultimately, resulting in the financial exclusion of precisely the individuals and communities that would benefit the most from the opportunities offered by a well-functioning financial system.[24]

2.3 Recent legal and quasi-legal developments and the need to re-examine financial inclusion

The increased opportunities and risks brought by the technological developments underlying the new digital economy for financial inclusion or exclusion have created new urgency for analysing the question of whether – and how – policymakers and regulators should promote financial inclusion, particularly in the age of AI. Traditionally, this question has elicited mostly cautious responses, circumscribed to the field of financial law and regulation. At national level, the world's most developed economies have sensed a trade-off between financial inclusion and financial stability, which has led most financial regulators in these countries (and the policymakers in charge of determining their remit and competences) to steer clear from electing 'financial inclusion' as an explicit regulatory goal.[25] Developing countries like India or Brazil have appeared more eager to embrace financial inclusion objectives, however they have failed to move the needle at the international level. Indeed, international financial regulation remains focused almost exclusively on financial stability – an agenda that will likely remain unchanged for as long as it keeps being driven by more mature economies, such as the United States or Japan (Jones; Knaack, 2017).

24 As noted previously, financial inclusion measures access to useful and affordable financial products and services (see World Bank Group, 2022). Access to predatory products and services that prey on the vulnerabilities of consumers, instead of servicing their needs is rather a form of further financial exclusion (particularly given its long-term effects).

25 Briefly, a stability-maximising approach 'designed to ensure well capitalised financial institutions might have positive implications for financial stability, but also exacerbate inequalities related to the access historically marginalised groups may have to capital' (see Brummer, 2024, p. 1-2). On the other hand, Gortsos and Panagiotidis have also noted several reasons why financial inclusion might support financial stability, as aggregate savings are increased and depositor bases and loan portfolios become more diversified (*see* Gortsos; Panagiotidis, 2017). For a balanced discussion of the complex relationship between financial inclusion and financial stability (including both positive and negative impact), *see*, ia, Damane; Ho, 2024.

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A second (sub-)question can also be asked regarding financial inclusion: whether, beyond discussions of financial regulation goals and regulatory objectives, financial inclusion should be recognised as a human right – with all the consequences that such classification would entail under relevant human rights law frameworks. Academic discussion in this area has been almost non-existent,[26] but there are several reasons why the issue deserves close attention.

This article has already hinted at the first reason: financial inclusion is inextricably linked to digital innovation, in that the new digital economy – and advancements in AI – have created both new opportunities for financial inclusion and new risks of financial exclusion. As a result, re-thinking the role that the legal system can play in furthering financial inclusion has never been more urgent. Second, recent consensus surrounding sustainable development goals has made it clear that peace and prosperity call for united action by all countries – and if, in the past, financial inclusion was seen as a concern for only a few emerging economies, it now features as a key enabler of assumedly global developmental goals. In fact, it features as a strategic target in at least four of the seventeen UN Development Goals.[27]

Finally, an invitation to re-examine the status of financial inclusion as a human right has come from an unexpected place: the EU AI Act and how it approaches the relationship between algorithmic credit scoring (discussed in the previous section) and financial inclusion – ultimately, revealing an openness to see financial inclusion as (at least) conceptually close to a human right. Briefly, the EU AI Act is a hybrid between a product services Regulation and a human rights instrument (Wendehorst, 2022, Almada; Petit, 2023) – or, rather, it is a product services Regulation with human rights protection ambitions. A discussion of whether the EU AI Act is an effective instrument for the protection of human rights falls outside the scope of this article – but its treatment of human rights may nevertheless offer interesting insights into the EU's current thinking on these matters.

26 The two main contributions in this area come from Brownlee; Stemplowska, 2015, and Queralt, 2016.

27 In truth, the United Nation's Secretary-General's Special Advocate for Inclusive Finance for Development (UNGSA) has noted the role played by financial inclusion in advancing the goal of no poverty (SDG 1), the goal of gender equality (SDG 5), the goal of affordable and clean energy (SDG 7) and the goal of decent work and economic growth (SDG8) – see United Nations Secretary-General's Special Advocate for Inclusive Finance for Development, 2018, 7. Indeed, the United Nation's Capital Development Fund (UNCDF) has gone even further and noted that '[f]inancial inclusion is positioned prominently as…a target in eight of the seventeen goals', including, in addition to the goals already mentioned, the goal of ending hunger (SDG2), the goal on promoting health and well-being (SDG3), the goal on reducing inequality (SGD10) and the goal on strengthening the means of implementation and revitalize the Global Partnership for Sustainable Development (SGD17) – see United Nations Capital Development Fund, 2024.

Crucially, the EU AI Act is a regulation with two explicit goals: on the one hand, improving the functioning of the internal market (in particular by promoting the uptake of human-centric and trustworthy AI) and, on the other hand, ensuring 'a high level of protection of...fundamental rights enshrined in the Charter [of Fundamental Rights of the European Union]' (EU AI Act, 2024, recital 1).[28] This dual objective – and the notion of fundamental rights – shapes the EU AI Act and, in particular, the risk classification system at its heart. More specifically, it is essential to the notion of 'high risk' that triggers the application of the toughest rules in the Act (bar the prohibition of applications creating unacceptable risk). Indeed, according to Article 6(3) of the Act, an AI system 'shall not be considered to be high-risk where it does not pose a significant risk of harm to [the] fundamental rights of natural persons, including by not materially influencing the outcome of decision making.'[29]

More interesting still, the EU AI Act goes on to identify 'algorithmic credit scoring' – or, in the words of the Act, 'AI systems used to evaluate the credit score or creditworthiness of natural persons' – as a high-risk application.[30] Importantly, the EU then goes on to justify its decision to consider 'algorithmic credit scoring' as a high-risk application due to its potential for limiting 'access to and enjoyment of essential private services and essential public services and benefits'. Given that *(i)* the notion of high risk in the AI Act is inextricably linked to the idea of threats to fundamental rights, and given that *(ii)* the Act describes the risk inherent in algorithmic credit scoring as a risk that an individual will not be able to 'access' and 'enjoy' 'essential private services and essential public services and benefits' – it would appear that the EU may in this instance be open to treating financial inclusion as consideration akin to a fundamental right.

In the end, none of these developments is decisive for concluding that financial inclusion is a human right. In particular, the fact that the UN has elected financial inclusion as a key driver of sustainable development, and the fact that the EU seems open to offering financial inclusion a similar degree of protection to that offered to fundamental rights – at least in the context of the AI Act – are only circumstantial. But given

28 See EU AI Act, Article 1(1).

29 An unabridged quote of Article 6(3) states that 'by derogation from paragraph two, an AI system referred to in Annex III shall not be considered to be high-risk where it does not pose a significant risk of harm to the health, safety or fundamental rights of natural persons, including by not materially influencing the outcome of decision making' – but it is clear that algorithmic credit scoring (and financial exclusion) is not linked to a significant risk to health or safety.

30 See EU AI Act, Recital (58) and Annex III(5)(b).

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also the growing risks created by technological development for financial inclusion, the debate of whether financial inclusion can be seen as a human right – particularly in the European context – is worth revisiting.

3. Finance and development considerations in the human rights discourse

The question of whether there is a human right to financial inclusion can take one of two forms: (i) whether a human right to financial inclusion already exists, either independently or linked to other existing rights, or (ii) whether a right to financial inclusion is emerging in the current human rights debate. As noted, there is currently little discussion within the human rights discourse on a potential right to financial inclusion – even as developments in the current digital economy shed new light on the potential of new technologies for exclusion.[31] However, scoping the relevant human rights literature unveils a vibrant debate on the interconnections between human rights, finance, and credit, particularly in the context of poverty.[32]

3.1 Debates on human rights, development and finance

For over two decades, scholars and policymakers have been exploring the areas where the discourse on poverty, human rights and microfinance overlap – and important work has been done to showcase how poverty impacts the fulfilment of human rights. The moral justifications of the responsibility to eradicate poverty have been explored in depth by Pogge in his seminal work 'World Poverty and Human Rights' (Pogge, 2008), and global poverty was described in 2004 by the former UN High Commissioner for Human Rights as the world's 'worst human rights problem.'[33] Indeed, even countries like the UK, which are perceived as strong economies, still have to grapple with the impact of poverty on human rights, as shown in the recent Report of the UN Special Rapporteur on extreme poverty and human rights (United Nations Human Rights Special Procedures, 2019).

31 For notable exceptions, *see* Brownlee; Stemplowska, 2015, and Queralt, 2016.
32 *See* the debates, ia, *in* Sorell; Cabrera, 2015, Kaltenborn *et al.*, 2020, Akande *et al.*, 2020; Macnaughton *et al.*, 2021, and Graham, 2023.
33 *See* Vizard, 2006, p. 3.

Yet, this debate is not settled among legal scholars and human rights experts. Rather, two different views have emerged among those who view the connections between human rights and development discourses as natural and intuitive – lamenting their separation as 'curious' (Nelson; Dorsey, 2008) – and those that would instead prioritise that separation in methodology and are sceptical in the face of what they consider a 'growing push to depict key anti-poverty interventions as rights' (Gershman; Morduch, 2015). While initially the two fields operated separately, they converged during their evolution, first by the articulation of a 'right to development' and gradually by the formulation of a 'human rights-based approach to development' (Uvin, 2007).

Within this broader debate, the roots of the development of a potential right to financial inclusion can be linked back to arguments about the existence of a right to credit. Pioneering arguments in favour of a right to credit have been made by Muhammad Yunus, the famous economist and activist who pioneered microcredit and microfinance strategies to help the rural poor in his home country, Bangladesh (Gershman; Morduch, 2015). His arguments are informed by his own practice. In the late 1970s, Yunus started the microfinance programme that would later become Grameen Bank, a development bank that specialised in providing trust-based microfinance to those living on low incomes in rural areas, especially women.[34] Driven by his insights into the difference that having access to microcredit made for the low-income rural populations served by Grameen Bank, Yunus has specifically argued in favour of the existence of a human right to credit, and in particular to microcredit.[35] This is connected to his view of poverty as a violation of human rights – in his Nobel Peace Prize Lecture, awarded for his work with Grameen Bank, he famously quipped that '[p]overty is the absence of all human rights' (Yunus, 2006).

The fact that eradicating poverty 'in all its forms everywhere' is at the top of the list of the United Nations Sustainable Development Goals (SGD 1 – No Poverty) speaks volumes to the importance of this discourse. As noted, the debate on financial inclusion is also connected to other key UN SDGs, including SDG 8 (Decent Work and Economic Growth) and SDG 10 (Reduced Inequalities). The tenacity with which legal scholars debate the existence and scope of human rights that can be construed as adjacent to a potential right to financial inclusion – such as the right to microfinance,

34 Grameen Bank is widely considered a success story, inspiring similar programmes around the world. It made headlines when it was awarded the Nobel Peace Prize in 2006 (along with Yunus).

35 For a more in-depth discussion, *see* Brownlee; Stemplowska, 2015, Sorell; Cabrera, 2015, and Sorell, 2015.

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the right to credit, and the right to be free from poverty – demonstrate that there is a convergence of discussions in the field that focuses on the interconnections between international human rights, development, and finance. Yet this discussion has so far only rarely included independently examining a potential right to financial inclusion.

3.2 The right to financial inclusion and its position within the human rights architecture

When reflecting on the existence of a putative right to financial inclusion, it is important to situate that right within the broader human rights framework, as this will methodologically delineate its potential scope and limits.

A right to financial inclusion would fall within the realm of social and economic rights, such as those enshrined under the International Covenant on Economic, Social and Cultural Rights (ICESCR).[36] This sets the parameters for the scope and content of such a potential right. Individual human rights such as those enshrined under the ECHR – for example, the right to a fair trial under Article 6, or the freedom from torture and other cruel and inhuman treatment under Article 3 – give rise to claims that individuals can bring before the European Court of Human Rights (ECHR or the Court). Alleging a violation of their rights under the ECHR allows an individual to have the Court adjudicate on their application and order compensation in the case of a violation. By contrast, the rights under the ICESCR are viewed as collective rights and do not typically create individual claims. The discussion on this is framed in terms of the 'justiciability' of economic and social rights – as in, their potential to generate claims that can be considered by the courts, or to be violated in ways that can be subject to judicial review.

This focus on the justiciability of economic and social rights – and to an extent, also of civil and political rights – has been criticised as 'ill-advised' (Pillay, 2012). Pillay argues that such a preoccupation reinforces a view that sees courts as bearing the primary responsibility for implementing these rights and that it shifts the focus away from questions of effectiveness in terms of their judicial approach (Pillay, 2012). Yet in human rights discourse, the conversation on justiciability persists as a key lens through which to study and elaborate on economic and social rights. This often takes

36 International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 999 UNTS 171 (ICESCR).

the perspective of examining domestic practice to evaluate the level of protection in specific jurisdictions and trace how far such rights have become justiciable (Nanda, 2022; Nussberger; Landau, 2023). The reach of the justiciability of social and economic rights is constantly reviewed and recalibrated, setbacks have been identified in terms of the progress already made in traditionally 'socio-economic rights friendly' judicial systems, such as those in Canada, India and South Africa (O'Connell, 2011).

Instead of clearly justiciable claims, economic and social rights impose an obligation on States Parties for the 'progressive realisation' of those rights. According to Article 2 par. 1 ICESCR, 'each State Party [...] undertakes to take steps [...] to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures'. Article 2 par. 2 ICESCR further clarifies that States Parties guarantee that the rights enshrined in the ICESCR are exercised without discrimination on the grounds of 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. This contextualises a putative right to financial inclusion: if such a right exists, it would function on the level of committing governments to undertake steps to progressively realise that right, rather than creating outright individual claims.

This point is important to frame the discussion presented in this paper and illustrate its potential impact: if recognised, a right to financial inclusion would (at least initially) operate on a level of limited justiciability, acting as a driver for governments to actively include relevant considerations in their planning towards its 'progressive realisation', rather than radically introducing a new individual right. But in a new digital economy where more developed economies have nevertheless been notoriously reluctant to add financial inclusion objectives to the mandates of their financial regulators, even this step could go a long way.[37]

3.3 Methodologies to justify the existence of a right to financial inclusion

Dissimilar its bigger 'siblings', namely the more widely explored and supported potential rights to be free from poverty or to credit, there has been little attempt to justify

37 See Section 2.3.

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the existence of a putative right to financial inclusion. An overview of important international and regional documents, which will be addressed in more detail below, readily reveals that there is no such right explicitly and independently enshrined in human rights law. Indeed, it is notable that few scholars outright argue for the existence of a right to financial inclusion, notably Queralt (2016) and Brownlee and Stemplowska (2015).

Crucially, it is not the aim of this paper to argue definitively that such a right exists, but instead to review human rights documents and discourse to argue that we can trace the potential for the emergence of such a right. More specifically, we argue that the unique characteristics of the EU human rights framework render it ideal to function as a potential 'incubator' for a right to financial inclusion, particularly following the EU's seeming openness to viewing financial inclusion as akin to a fundamental right in the context of the new digital economy and the recently approved AI Act. In this analysis, it is important to first explore the methodological approaches that can be adopted to argue that a right to financial inclusion exists or is at least conceivable. There are two avenues that will be explored here: first, (i) a justification based on protecting a fundamental interest independently from other rights, and second, (ii) a justification premised on the purported right's support and connection to other well-established rights (linkage argument).[38]

For the first approach, justifying the existence of a right to financial inclusion, is premised on interrogating whether it can be construed as a right that protects a fundamental human interest – a 'justified moral right' (Nickel, 2007). Accounts on the justificatory basis of human rights can differ across human rights scholars. In his work, Griffin has attempted to give a theoretical account on how to discern human rights that is mostly focused on agency and autonomy, along with considerations of 'practicalities' (Griffin, 2008). Nickel (2007) expands on this to offer a pluralistic justificatory framework for rights, accepting equally 'prudential arguments' (arguing that it is better for people to live under a system that recognises and protects human rights), pragmatic justifications, deriving rights from moral norms and values, as well as linkage arguments that connect a right to another (established) right by virtue of showing that the former is needed for the effective implementation of the latter. He develops a six-step test for justifying specific human rights, which includes showing that a norm

38 For more on linkage arguments, see further and Nickel, 2022.

has the importance associated with human rights and that it is feasible to implement in most countries today (Nickel, 2007).

The right to financial inclusion has been justified within this methodological approach by recourse to autonomy. Queralt has argued that our interest in autonomy can underpin a right to financial inclusion, as the latter would serve distinct claims yielded by our interest to autonomy, such as the ability to choose autonomously and the ability to have meaningful opportunities for choice (Queralt, 2016). While this line of justification would provide a strong and independent premise if successful, it is the weaker of the two approaches examined here. On the one hand, the series of connections that need to be established between the right to financial inclusion are intuitive and easy to accept in the abstract. It is hard to disagree with Queralt's assertion that savings can help protect against contingencies, such as health shocks, or long-term unemployment (Queralt, 2016). However, when it comes to examining whether these connections have the tenacity needed to operate as a justification for the existence of a *legal right*, the exercise becomes less persuasive. Indeed, while financial inclusion can have the benefits that Queralt describes, there is a leap here that equates possibility with certainty. Having access to affordable financial services does not mean that an individual will use them in a way that will necessarily generate savings, insurance, and similar protections, and will ultimately enhance autonomy. Indeed, the broader connections drawn between the putative right to financial inclusion and autonomy are not direct or specific enough to *this right* and could be argued in the abstract for a variety of putative rights.[39]

Another avenue to justify the existence of a right to financial inclusion, is to explore whether it could be derived from other well-accepted human rights, notably those enshrined in seminal international human rights instruments. This approach uses so-called linkage arguments to justify the existence of controversial rights by showing that these provide useful support to the realisation of well-accepted rights (Nickel, 2008, 2022). This method has been used by scholars to justify the existence of the right to subsistence and the right to security (Shue, 2020). It has also been adopted more recently by Queralt to offer another potential justification for the right to financial inclusion, by linking it to the right to an adequate standard of living and

39 *Cf.* Brownlee; Stemplowska, 2015, p. 48, who argue that a right to financial inclusion would 'directly empower or enhance and improve the conditions of the recipient'.

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to the right to development (Queralt, 2016). We argue that a methodological approach informed by linkage arguments offers a significant benefit, as it is used to reframe the discussion away from an all-or-nothing exercise. By deploying this approach, we do not attempt to fully justify the existence of a right to financial inclusion *right now*, but we, instead, examine to what extent we can trace the emergence of such a right by referring to other established human rights. By recasting the question in this light, we are able to examine a series of adjacent human rights and still produce meaningful results, of particular importance in face of the new forms of financial exclusion brought about by the new digital economy.

4. Exploring human rights instruments

In order to explore the links between a potential right to financial inclusion and other rights, we need to first determine which international and regional human rights instruments will be examined. In this paper, we focus on two levels: on seminal international human rights documents – notably the ICESCR, the International Covenant on Civil and Political Rights (ICCPR),[40] and the Universal Declaration of Human Rights (UDHR)[41] – and on regional European international human rights documents, most importantly the ECHR and the Charter.

International human rights documents provide a robust framework for rights that are widely recognised, both in the Global North and in the Global South. Regional European human rights law is examined both because of its broad influence on human rights discourse, and due to the seeming openness of the EU in recognising the importance of financial inclusion, at least in the context of its AI Act and the new digital economy. As noted, the ECHR is widely seen as offering one of the most robust levels of protection for human rights globally and the case law of the ECtHR – with its scrutiny of European consensus – is influential in shaping the direction of human rights recognition (Merrills, 1993).[42] Finally, the EU offers a particularly relevant framework for assessing the emergence of new economic rights due to its unique emphasis on rights

40 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR).

41 Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III) (UDHR).

42 The Court's reliance on consensus has also been criticised as inhibiting protection in some cases, for example when accommodating East or West divisions in the context of formalisation of same-sex relationships (see Fenwick; Fenwick, 2019).

and freedoms connected to its internal common market and its initial conception as a primarily economic union. Indeed, this connection is made clear in the dual objective of internal market promotion and protection of fundamental rights that underlies the EU AI Act.[43]

4.1 A right to financial inclusion in international human rights instruments

When exploring whether the right to financial inclusion can be derived from other human rights, our attention turns quite naturally to the rights reflected in the ICESCR. The ICESCR, along with the ICCPR, were adopted by the United Nations General Assembly in 1966 and have since been widely signed and ratified by UN member states. Along with the UDHR, they form the so-called International Bill of Human Rights, occupying a seminal place in international human rights law. A putative right to financial inclusion could be linked to the right to an adequate standard of living, which is enshrined under Article 37 of the UDHR and under Article 14 of the ICESCR. While it is not explicitly defined (EIDE; EIDE, 2022), the term 'adequate standard of living' encompasses access to basic subsistence including access to adequate food,[44] clothing, and housing (Jayawickrama, 2017), as well as access to healthcare (also connected to Article 12 ICESCR).

The right to an adequate standard of living can potentially support the existence of a right to financial inclusion through linkage arguments. Financial inclusion can help those living on low incomes to generate income to provide for themselves, as well as improving the efficiency of social protection policies (Queralt, 2016). Yet beyond those broad connections, the conceptualisation and interpretation of the right to an adequate standard of living can also prove instrumental in providing an insight into the importance of financial inclusion considerations in existing fundamental rights doctrine, offering glimpses into a pathway to independent recognition of its importance. A primary inspiration for the right to an adequate standard of living was the 'freedom from *want*' advocated by US President Franklin D. Roosevelt in his famous 1941 State of the Union on *Four freedoms* (Smith, 2022; Eide; Eide, 2022). According

43 See Section 2.3.

44 This right is also connected to Article 12 of the Additional Protocol to the American Convention on Human Rights (ACHR).

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to Roosevelt, freedom from *want* 'translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants-everywhere in the world' (Roosevelt, 1941). In economic terms, the right to an adequate standard of living is connected to 'living above the poverty line' (Eide; Eide, 2022) and obliges states to both respect everyone's freedom to 'find their own ways of ensuring their standard of living' and to facilitate access to public resources to do so, especially for disadvantaged and marginalised groups. Importantly, under Article 11 ICESCR, the right to an adequate standard of living is connected to the right to 'continuous improvement of living conditions', which was included to make the article more 'dynamic' (Jayawickrama, 2017). This trifecta of the right's conceptual roots, current interpretation, and purposefully dynamic character can be used to connect it to considerations regarding financial inclusion that could render the right more effective.

The right to development is another avenue to pursue a linkage-argument-informed approach to a potential right to financial inclusion. This right is notably enshrined under the 1986 UN Declaration on the Right to Development (DRTD) – which itself constitutes soft law.[45] Yet it has also been recognized in regional human rights documents, notably the African Charter on Human and Peoples' Rights and the Arab Charter on Human Rights and affirmed in other documents, such as the 2007 Declaration on the Rights of Indigenous Peoples. According to the UN Working Group on the Right to Development (UNWG), the realisation of the right is mediated through the full observance of economic, social, cultural, civil, and political rights, underpinning the concept of 'indivisibility, interdependence, and universality of all human rights' (Uvin, 2007). The centrality of this right is underscored by the mandate of the UNWG to draft a binding convention (Teshome, 2022). The first Draft Convention and accompanying commentary were released in January 2020 (Unga Human Rights Council Working Group on the Right to Development, 2020), with a revised draft released in April 2022 (Unga Human Rights Council Working Group on the Right to Development, 2022). The Draft Convention affirms the commitment to 'human rights-based development' (draft Article 3 (c)).

In both the DRTD and the Draft Convention, there are clear connections between the right to development and economic justice, which is linked to financial inclusion.

45 For a discussion of the nature of UN General Assembly Resolutions, see, *i.a.*, Falk, 2005. Specifically, on the DRTD's status as soft law, see Teshome, 2022.

The DRTD declares that the right to development includes 'economic development' (Article 1 par. 1) and that states have the obligation to take all necessary measures – including economic and social reforms to eradicate all social injustices – to foster the realisation of the right, ensuring equality of opportunity and fair distribution of income (Article 8). The Draft Convention reiterates and elaborates on the obligation of states to respect (draft Article 10), protect (draft Article 11) and fulfil (draft Article 12) the realisation of the right. It also enshrines a multifaceted 'duty to cooperate' (draft Article 13), which includes the duty to end poverty, to promote higher standards of living and employment, and to support developing and least developed countries in their obligations under the draft Convention, as well as specific provisions on equality between men and women (draft Article 16) and on indigenous people (draft Article 17). The draft Convention mentions issues related to trade, investment and finance, global financial markets, corruption, debt sustainability for developing and least developed countries, North-South and other forms of regional and international cooperation, and capability-building support.

Ultimately, it is clear that financial and economic considerations are close to the heart of the right to development, so could this be the avenue to justify the existence of a right to financial inclusion? While good arguments have been made in favour of this linkage (Queralt, 2016), the strength of the connection between the right to development and a potential right to financial inclusion still leaves something wanting. This is in large part due to doctrinal weaknesses of the right to development itself: it is itself still in a state of evolution, anchored in soft law on the international level. Therefore, it is not as diligently elaborated or interpreted as the right to an adequate standard of living. This doctrinal indeterminacy renders it more difficult to robustly support the existence of a right to financial inclusion. The DRTD has been criticised as 'bad law', with Uvin (2007, p. 598-599) arguing that it was 'operationally meaningless' and that from a practical perspective the track record of the right was 'catastrophic'.[46] The right to development is still to deliver fully on its potential, making it a poor candidate for supporting the existence of another emergent right.

46 *See* the discussion *in* Uvin, 2007, p. 598-599.

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4.2 A right to financial inclusion in European human rights instruments

Turning our attention to European regional rights documents, the ECHR and the Charter are the main points of reference for domestic, regional, and international human rights debates (Merrills, 1993; Tripkovic; Zysset, 2024). Both the ECHR and the Charter carry immense symbolic weight within the EU human rights framework. The ECHR was devised as a defence mechanism against authoritarian rule, in direct response to the human rights violations during World War II.[47] It was drafted in 1950 by the then fledgling Council of Europe (CoE), which has a declared mission to 'promote democracy, human rights and the rule of law across Europe and beyond'. On the other hand, the Charter is a much younger instrument, having attained binding force only in 2009 after the Treaty of Lisbon.[48] Yet there is symbolism in its recent elevation to a legally binding document, as it reflects the fulfilment of the EU's promise to be a Union based on human rights and the rule of law.

The ECHR is a succinct document, containing a handful of substantive provisions in Section I, which enshrine fundamental human rights and freedoms in quite abstract terms. This pithiness is complemented by the 'living instrument' approach adopted by the ECtHR, the authoritative adjudicating body on violations of the Convention. Under this approach, the Convention is a living, dynamic instrument and the rights contained therein are to be interpreted in accordance with evolving human rights standards across Europe. The Court has also developed further methodological tools to establish the scope and content of rights and decide when it is appropriate to expand them, notably the European consensus – which takes stock of the consensus on the existence of a right across member states to determine the extent and tenacity of protection (Dzehtsiarou, 2015)[49] – and the margin of appreciation – which determines

47 The ECHR entered into force in 1953, drafted by CoE, an international organisation founded in 1949 which now brings together 46 European countries. The establishment of CoE was a clear reaction to the devastation of World War II across Europe and was underpinned by a strong belief that protecting and upholding the rule of law against authoritarian governments was a necessary defence against seeing a conflict of similar scale and atrocity take root again. This mission is clear in the symbolism of drafting the ECHR in 1950 as one of the first steps of the then nascent CoE.

48 Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007 OJ C 306, 17.12.2007, 1-271 (Treaty of Lisbon), amending the Treaty of the European Union (TEU) art 6 par 1. See also Craig, 2013.

49 The weight the Court attaches to the European consensus across different cases has also been criticised as 'inconsistent', for example in the case of Article 14 (prohibition of discrimination) claims (see Kagiaros, 2019).

to what extent domestic governments may exercise discretion in applying and restricting the rights under the Convention.

While the ECHR itself does not include any provisions that can be readily linked to a putative right to financial inclusion – focusing instead on fundamental rights, such as the prohibition of torture, the right to a fair trial, and the freedom of expression – is inextricably connected to the level of protection of human rights under EU law. The seminal document in EU human rights law is the EU Charter of Fundamental Rights. While it was adopted by the main EU institutions in 2000, it did not become legally binding until the Treaty of Lisbon in 2009. This is also connected to the beginnings and journey of the EU as a *sui generis* supranational union. The EU is the spiritual successor to the European Coal and Steel Community, founded in 1951, which focused on economic cooperation on coal and steel production between six member states. In 1957, the European Economic Community was established through the Treaty of Rome,[50] and later the collectively known European Communities evolved into the European Union through the Maastricht Treaty in 1992.[51] This development from primarily economic cooperation towards a more political union reached its peak with the Lisbon Treaty in 2009, which cemented the EU's journey towards political integration and regulatory harmonisation, including moving away from a default decision-making system based on unanimity to one of qualified majority, streamlining the EU's legal personality, and creating the high-ranking unifying political offices of the President of the European Council and of the High Representative of the Union for Foreign Affairs and Security Policy. Among other reforms, it also vested the Charter with legally binding force, signalling the consolidation of the EU as a human rights union.

Yet the beginnings of the EU as a primarily economic union premised on its internal common market still ramble under the surface – as is evident in the Charter. Indeed, while the EU has traditionally taken a cautious approach to broader human rights concerns – for example by taking careful steps towards harmonising criminal law rules (Mitsilegas, 2016; Wieczorek, 2020) – it has been quite liberal when it comes to economic freedom and mobility (Barnard, 2022). The Charter benefits in terms of its reach and validity from its connection to the ECHR, which is a much more well-established instrument with a long history of pioneering protection and a rich

50 Treaty establishing the European Economic Community (Treaty of Rome).
51 Treaty on European Union OJ C 191, 29.7.1992, 1–112 (Maastricht Treaty).

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jurisprudence interpreting its provisions. Under Article 52 par. 3 of the Charter, it offers *at least the same* level of protection as the ECHR, rendering the discourse relationship between the two instruments clear. Yet the Charter also extends well beyond the scope of the rights enshrined under the Convention to incorporate a wider breadth of rights – and particularly, economically-minded rights. Title IV of the Charter, titled *Solidarity*, contains rights such as the right to fair and just working conditions (Article 31), the right to social security and social assistance (Article 34) and the right to access to services of general economic interest (Article 36).

The last right, especially, cannot be construed as providing the basis for a new right to financial inclusion, as its meaning is quite specific and relates to the right of states to facilitate access services of general economic interest to their citizens through national provisions compatible with EU law.[52] However, its existence provides a glimpse into the kinds of considerations that have made their way into the human rights architecture of the EU. While there is no established right that could readily support a linkage argument more than in the international human rights framework examined above, the EU framework brings a different legacy that informs a unique, economically focused outlook on human rights. The preamble of the Charter itself is clear on this, noting that beyond upholding fundamental values, such as freedom, equality, and democracy, EU also 'seeks to promote balanced and sustainable development and ensures free movement of persons, services, goods and capital, and the freedom of establishment', which informs why it is 'necessary to strengthen the protection of fundamental rights.'

This sharp focus of the EU on blending economic concerns with social welfare and human rights – most recently seen in the EU AI Act's dual objective of internal market promotion and protection of fundamental rights – coupled with the influence of the ECHR to make the Charter an inherently dynamic instrument, provides potential for the EU human rights framework to function as an incubator for a potential right to financial inclusion. This is also facilitated by the fact that the Union is *sui generis*, used to finding its own way and developing its own normative roadmap to facilitate the primary driver behind its inception: fostering the economic stability and growth of member states and speaking to the economic potential of what only later became EU citizenship.

52 European Parliament, Council, Commission, Notices from European Union Institutions and Bodies – Explanations relating to the Charter of Fundamental Rights, OJ C 303/17 - 14.12.2007.

5. Conclusion

The opportunities and challenges of the digital economy – the promises and perils of AI – are an urgent prompt for revisiting discussions around financial inclusion. While eminently an economic concept, financial inclusion has been catapulted to public attention on the back of its perceived connection with new FinTech developments, its unique role in furthering sustainable development goals, and passionate discussions surrounding the regulation of AI – in Finance and beyond.

It is clear that financial inclusion and technological development are nowadays inexorably linked: policymakers around the world have high hopes that technology will play a significant role in addressing the problems of financial exclusion, but there are reasons to be sceptical. Digital exclusion still affects millions of individuals – particularly the most vulnerable among us – and technologies, like AI have as much potential for enabling financial inclusion as they have for furthering financial exclusion. Crucially, the goal of financial inclusion has never been more prominent in the public discourse, and flagship legal and quasi-legal frameworks like the UN Sustainable Development Goals and the EU AI Act have each recognised the growing importance of access to affordable financial products and services as a pathway to sustainable, human-centric economic development.

It is then high time that the human rights discourse re-examines its focus on economic rights and reignites a targeted discussion on the potential right to financial inclusion – particularly as policymakers around the world debate whether to include financial inclusion among the objectives of their financial regulators. While this exercise might seem a bit far-reaching for some, taking a bird's eye view over the more recent developments in this area, reveals telling signs: an increased connection between discussions on poverty, access to credit, and human rights that has been ongoing for over two decades, coupled with the tumultuous journey of the right to development show that economic considerations have always had a role to play in human rights discourse. Much like the ups and downs of the interconnections between human rights considerations and the debates on development (Uvin, 2007), the discussion on financial inclusion and human rights might take us to places that now seem quite far out of reach – including the potential recognition of a right to financial inclusion.

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Fleshing out the existence of a putative right to financial inclusion will need a triad of legislative and value sensibilities: a legacy of normative innovation, a strong commitment to upholding human rights and social welfare, and a tradition of being particularly attuned to financial and economic considerations. The EU human rights framework uniquely exhibits all three. While we might still be a long way from definitively recognising a right to financial inclusion, we argued that the seeds are in place in EU human rights architecture. Thanks to its *sui generis* position underpinned by an initial focus on the economic dimensions of the Union, that paved the way for the Human Rights Union today, coupled with the influence of the ECHR towards a dynamic interpretation of the Charter, the EU might prove the ideal incubator for a right to financial inclusion.

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