

ŁUKASZ SZOSZKIEWICZ

RAFAŁ ŚWIERGIEL

FINANCIAL INSTITUTIONS AND INDIVIDUAL AUTONOMY
—A HUMAN RIGHTS PERSPECTIVE

INTRODUCTION

The twentieth century saw the growing popularity of banking services with ordinary citizens, which created both opportunities (for example, credit is a chance for self-improvement and, consequently, social advancement) and threats (low economic awareness may result in bankruptcy if a loan was taken out). What is more, the progressing deregulation of the financial sector, reaching its height in the 1980s, led to an unprecedented increase in the importance of financial institutions for the global economy. As a result, the economic position of many of them has at times proved to surpass that of states, a situation begging the question concerning the legitimacy of obligations that were imposed on those entities related to the protection of human rights. In this work, the term “financial institutions” should be taken to refer to all entities conducting specific financial large-scale activities, in particular banks, investment firms, credit institutions, insurance companies, and pension funds.¹ The notion of “autonomy” is interpreted equally broadly and—after Joseph Raz—denotes the ability to shape one’s own life.²

ŁUKASZ SZOSZKIEWICZ, MA, is a doctoral student at the Department of Constitutional Law, Faculty of Law and Administration of Adam Mickiewicz University in Poznań (UAM); address: ul. Św. Marcin 90, 61–809 Poznań, Poland; e-mail: l.szoszkievicz@amu.edu.pl; <https://orcid.org/0000-0001-6671-2893>.

RAFAŁ ŚWIERGIEL—Interdisciplinary Individual Studies in Humanities and Society, UAM; address: Adam Mickiewicz University in Poznań (UAM); address: ul. Fredry 10, 61–701 Poznań, Poland; e-mail: rafalswiergiel@gmail.com; <https://orcid.org/0000-0002-7519-6955>.

¹ OECD, *Standard for Automatic Exchange of Financial Account Information in Tax Matters* (OECD Publishing, 2014), 44. See the definition in *Dictionary of Business* (London: A & C, 2006), 159.

² J. RAZ, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), 369.

STATE—BANK—INDIVIDUAL RELATIONS IN THE 20TH CENTURY

In 1944, a conference was held in Bretton Woods (USA) whose objective was to develop a new monetary order. The conference had the following aims:

- 1) creation of a supranational financial authority
- 2) maintenance of a fixed exchange rate between national currencies and the *unitas*.³

Soon after, in 1947, the International Monetary Fund (IMF) was established, bringing together 48 countries. It exerted a formidable influence on the development of the monetary system and international settlements, which was reflected in the IMF's main task, that is, granting loans to stabilise currencies. In addition, the International Bank for Reconstruction and Development (IBRD) was set up to provide loans for purposes other than monetary stability.⁴ In fulfilling the provisions of the IMF charter, central banks were obliged to guard the value of national currencies. The exchange rate could not deviate from the parity by more than 1%. If this limit were to be exceeded, the central bank had to increase its foreign exchange reserves and increase the supply of foreign exchange on the market.⁵

The Bretton Woods system worked effectively for nearly a quarter of a century. Social transformations and growing dissatisfaction with the conference's outcomes led President Nixon to freeze the exchangeability of the dollar for gold in 1971.⁶ This process was initiated by the crisis of the 1970s, culminating in the oil crisis.⁷ In addition, it sealed the fate of the Bretton Woods system in 1973. Finally, judging from a broad socio-economic perspective, the period of the 1970s led to the decline of state interventionism. However, all in all, the Bretton Woods system cannot be

³ *Unitas* was a working name of an international monetary unit equivalent to approx. 10 USD; see also W. MORAWSKI, *Zarys powszechnej historii pieniądza i bankowości* (Warszawa: Wydawnictwo Trio, 2002), 174.

⁴ W. RUTKOWSKI, *Międzynarodowy System Walutowy—możliwości nowych rozwiązań* (Warszawa: Biuro Studiów i Ekspertyz, 2000), 1–16.

⁵ *Ibid.*, 1–2.

⁶ The president of the German Federal Bank (Deutsche Bundesbank), Karl Blessing, called the Bretton Woods system “an excellent inflationary machine”; compare RUTKOWSKI, *Międzynarodowy System Walutowy*, 2–3.

⁷ However, it is worth pointing out that the political cause of the outbreak of the oil crisis was also the war of the Arab states with Israel (the Yom-Kippur war). King of Saudi Arabia, Faisal, in response to the West supporting Israel, stopped oil exports to Western countries, see P. MAJKA, “Krótka Historia Domu Saudów,” accessed June 16, 2017, http://www.almaszrik.uni.lodz.pl/Dom_Saudow.pdf.

appraised as explicitly negative. The post-war efforts of the originators of the system could not be overestimated, and the establishment of the IMF and IBRD turned out to be a prudent move, which confirms the effectiveness of these institutions to this day. As regards the impact of the Bretton Woods system, we should mention the gradual deregulation of the financial sector, as this element led to an unprecedented growth of financial institutions and discussion of their duties with respect to human rights protection.

The twentieth century also brought about a change in relations between financial institutions, mainly banks and individuals. Our further considerations will focus on the following issues:

- 1) the growing importance of commercial banks from the socio-economic perspective and in the context of inter-state relations, and
- 2) the struggle of commercial banks for consumers.

At the outbreak of World War I, commercial banking was not widespread. Only the wealthy bourgeoisie benefited from such services, constituting a minority in the general population. As a result of social transformations (associated with accelerated urbanization and the invention of assembly line production), this began to change.⁸ These changes led to an increase in the popularity and efficiency of commercial banks. Directly after the end of the Second World War, their importance increased markedly. This was caused by a number of factors, one being the establishment of the European Payments Union, which by the end of 1958 guaranteed the full exchangeability of the Western currencies.⁹ In the years to come, the popularity of commercial banks was spurred by the dismantling of customs barriers by the EEC and EFTA.¹⁰ Finally, the increase in wages in the early 1950s gave rise to a positive model of saving in Western societies by depositing one's own capital in bank accounts.¹¹

Banking was increasingly popular, and so were individual banking institutions. Individuals are more and more willing to use the services of banks, while deregulation may jeopardise their autonomy—look at the crisis in the USA in 2008, when the indebtedness of individuals led to their financial

⁸ J. KALIŃSKI, *Historia gospodarcza XIX i XX wieku* (Warszawa: Polskie Wydawnictwo Ekonomiczne, 2008), 192–204.

⁹ The following countries using the pound sterling and franc as well as their overseas territories became members of the European Monetary Union: Belgium, the Netherlands, Portugal and Italy, see KALIŃSKI, *Historia gospodarcza*, 288.

¹⁰ KALIŃSKI, *Historia gospodarcza*, 290.

¹¹ In the United Kingdom, France, Germany and the USA, the real wage growth in 1973 (1970 = 100) was respectively: <120, <120, <120 and >100, see KALIŃSKI, *Historia gospodarcza*, 292.

degradation, shoving them to the fringes of society. Commercial banks, using intense advertising campaigns, struggle for their clients' wallets, often taking advantage of their low social awareness. This is due, among other things, to the fact that the market of commercial banks is universal and uniform, and moreover relatively saturated in developed countries.¹² According to a recent survey, 82% of Europeans now use banking services.¹³ Banking has become widely accessible; some banking operations are free of charge, and since the beginning of the twenty-first century, the popularity of e-banking has been growing.

THE INFLUENCE OF FINANCIAL INSTITUTIONS ON INDIVIDUAL AUTONOMY IN THE ERA OF GLOBALISATION

The second half of the twentieth century was the time when an international system for the protection of human rights was established. Since then it has been constantly evolving to keep abreast of the changing realities. One of its visible trends is seen in attempts to define the obligations of non-state actors to protect the rights and freedoms of individuals. In 2011, the United Nations Human Rights Council adopted the Guiding Principles on Business and Human Rights,¹⁴ and the Committee on Economic, Social and Cultural Rights adopted a general comment on human and business rights.¹⁵ The path followed by the international community is a response to the growing importance of non-state actors in the organisation of social life, including

¹² T. NIEBORAK, "Polskie prawo bankowe a międzynarodowe standardy przeprowadzenia i egzekwowania bankowości czynnych nadzorczych," *Ruch Prawniczy, Ekonomiczny i Socjologiczny* 1 (2002): 123–32.

¹³ According to research carried out by MasterCard, 85% of Poles have a bank account, which is a better result than the European average. Moreover, Poles are the most willing to use electronic services in the whole Europe—83% against the European average of 69%, see W. BO-CZOŃ, "85 proc. Polaków ma konto w banku," accessed June 17, 2017, <http://www.bankier.pl/wiadomosc/85-proc-Polakow-ma-konto-w-banku-7410187.html>.

¹⁴ The Directive guarantees, among others, a free personal account, see Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment with basic features. OJ L 257/214, 28.8.2014.

¹⁴ UN, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011.

¹⁵ COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS. General Comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C.12/GC/24.

employment, food production, medicines, education, research and financial management. Given the economic advantage that such entities have over both individuals and state governments, it has become necessary to clarify the state–corporation–individual relationship for effective protection of human rights, with particular emphasis on the obligations that non-state actors have with respect to individual people. As Melissa Lane points out, only a person who can freely exercise their rights (and assert those rights in courts) is autonomous,¹⁶ in other words, capable of shaping their own life.¹⁷

THE OBLIGATIONS OF FINANCIAL INSTITUTIONS WITH REGARD TO THE PROTECTION OF HUMAN RIGHTS

Among the largest companies in the world one finds numerous financial institutions, such as HSBC Holdings (Great Britain), Bank of America Corporation (USA) or Citigroup (USA).¹⁸ The global value of derivatives in 2012 reached 700 trillion dollars, or ten times the combined GDP of all economies in the world.¹⁹ The importance of financial institutions for the organisation of social life could be seen at its fullest during the crisis of 2007. According to the World Bank data, the wave of the 2007–2009 crisis drove over 64 million people globally into extreme poverty,²⁰ affecting their ability to exercise their right to food and water, their right to live in adequate housing, to health or education. At that time, the need to include human rights in the mainstream discussion on the financial crisis²¹ and make human rights one of the cornerstones of the global financial system intensified. Although these proposals were not translated into acts of international law

¹⁶ M. LANE, “Autonomy as a central human right and its implications for the moral responsibilities of corporations,” in *Human rights and the moral responsibilities of corporate and public sector organisations*, ed. T. Campbell and S. Miller (Dordrecht: Springer Netherlands, 2004), 145–63.

¹⁷ RAZ, *The Morality of Freedom*, 369.

¹⁸ M. JAWOREK and M. KUZEL, “Transnational Corporations in the World Economy: Formation, Development and Present Position,” *Copernican Journal of Finance & Accounting* 4, no. 1 (2015): 55–70.

¹⁹ BANK FOR INTERNATIONAL SETTLEMENTS, “Semiannual OTC derivatives statistics,” accessed, June 16, 2017, <http://www.bis.org/statistics/derstats.html>.

²⁰ WORLD BANK, *Global Monitoring Report 2010: The MDGs after the Crisis* (Washington DC, 2010), 101.

²¹ HUMAN RIGHTS COUNCIL, The impact of the global economic and financial crises on the universal realization and effective enjoyment of human rights (February 23, 2009), A/HRC/RES/S-10/1, item 8.

affecting strictly the financial sector, the role of business in ensuring the implementation of human rights was emphasized in the *Guiding Principles on Business and Human Rights* [further quoted as *Principles*]. This document, despite its non-binding status, laid down a legal framework for further work by the international community. The added value of the document is the fact that the *Principles* were adopted unanimously, without voting, which indicates their universal acceptance.²²

According to the document, business enterprises should respect human rights. This means that they should refrain from human rights abuses and, where their activities have a negative impact on the exercise of human rights, take adequate measures to prevent violations, mitigate their effects and provide remedies if the rights are infringed (Principle 11). In order to comply with the obligation to respect human rights, business enterprises should adopt policies which will demonstrate their commitment to this obligation, to exercise due diligence with respect to human rights in its operations. The document also provides for remedies for any adverse human rights impacts (Principle 15). The first element of the concept of due diligence is assessment of the impact of the company's activities on human rights and identification of the main threats (Principle 18); the second element is to take into account the results of this analysis in order to prevent and mitigate negative impacts (Principle 19). It should be noted that financial institutions can fulfil this obligation either indirectly (for example, by refusing to finance other enterprises involved in human rights violations) or directly (for example, by increasing access to banking services offered in minority and indigenous languages,²³ by carrying out informational and educational activities with the goal of raising the economic awareness of customers). It is pointed out that banks which are guided by the requirement of due diligence in respect of human rights should use their own internal procedures

²² This fact is worth emphasising for one more reason. The United States still has not ratified the International Covenant on Economic, Social and Cultural Rights of 1966, which means that it is not bound by its provisions. The final adoption of the resolution approving the Guidelines for Business and Human Rights on June 16, 2011, unanimously and without voting, became possible after a compromise had been ironed out with countries that were initially sceptical about this idea, including the United States, despite earlier reservations. See K. BUHMANN, "The Development of the 'UN Framework': A pragmatic Process Towards a Pragmatic Output," in *The UN Guiding Principles on Business and Human Rights. Foundations and Implementation*, ed. R. Mares (Leiden–Boston: Martinus Nijhoff Publishers, 2012), 99–102.

²³ T. BECK and M. BROWN, *Which Households Use Banks* (Frankfurt am Main: European Central Bank, 2011), 20ff.

to counteract money laundering or corruption, and to respect international sanctions—since such phenomena typically entail human rights abuses.²⁴

In 2014 and 2016, the BankTrack organisation, a provider of expert analyses of the banking sector, published reports addressing the implementation of the *Principles* by 45 largest banks in the world.²⁵ The adopted criteria were divided into four categories: corporate policy, human rights due diligence, reporting of human rights violations and access to remedies. Only 22% of banks were classified as implementing the *Principles* in a sufficient or higher degree (at least 6 of them on a 12-point scale). Nevertheless, the latest report notes progress in comparison to 2014—15 banks improved their results, while the positions of other 13 banks remained unchanged, and in two cases it decreased (Banco Santander, Mitsubishi UFJ Financial Group). It is clear that European banks are the most successful in implementing the *Principles* (out of the 20 surveyed banks, 14 were classified as sufficiently implementing the *Principles*) and Asian banks do it the least efficiently (all seven banks are in the last category of “laggards” with a score of 3 points or less]. The biggest progress had been made by Deutsche Bank (a 5 point increase), Barclays (3 points) and Wells Fargo (3 points), while the Dutch Rabobank came the highest with 8 points.

The element which banks find the most problematic despite being explicitly indicated in the *Principles* is the existence of an effective non-judicial grievance mechanism. According to Principle 31, it should meet seven criteria by being: legitimate, accessible, predictable, equitable, transparent, human-rights compatible, and potential for improvement. According to the TrackBank report, in 2016 none of the forty-five banks surveyed had a mechanism meeting these criteria.²⁶ Such mechanisms have a twofold role: on the one hand, they serve as a source of information for undertakings on their impact on the exercise of human rights by individuals and communities and, on the other, as a means of preventing the aggravation of possible violations and remedying damage caused by human rights infringements.²⁷

²⁴ FOLEY HOAG LLP, *United Nations Environment Programme Finance Initiative, Banks And Human Rights: A Legal Analysis* (Washington–Geneva, 2015), 3.

²⁵ BANKTRACK, “Banking With Principles? Benchmarking Banks Against the UN Guiding Principles on Business And Human Rights (June 2016),” accessed June 18, 2017, https://www.banktrack.org/download/5412388/bwp_ii_final.pdf.

²⁶ *Ibid.*, 11.

²⁷ EARTHRIGHTS INTERNATIONAL, “Community-Driven Operational Grievance Mechanisms,” 2, accessed June 17, 2017, https://www.earthrights.org/sites/default/files/documents/ogm_discussion_paper.pdf.

In the case of financial institutions, the existence of such a mechanism is all the more justified given that their activities rely to a large extent on the financing of other entities which may abuse human rights. One of the most frequently discussed cases is the provision of financial services to business entities that implement large investment projects in areas inhabited by indigenous peoples, for example in mining or energy sectors. Such investments are sometimes carried out without consulting the indigenous communities, leading to infringement of their autonomy by restricting or denying access to ancestral land, natural resources and raw materials.²⁸ The right of indigenous peoples to self-determination was in turn laid down in Articles 1 and 25 of the International Covenant on Economic, Social and Cultural Rights of 1966.²⁹

ECONOMIC RIGHTS

Attempts to regulate the obligations of companies, including banks, with regard to the protection of human rights is one of the two phenomena demonstrating the need to strengthen the autonomy of individuals in relations with entities having a significant economic advantage.³⁰ The other phenomenon of this kind is the frequently formulated proposals for new rights, the incorporation of which in international documents should guarantee better protection of the individual, such as the right to tourism,³¹ access to electricity³² and the right to access the Internet.³³ Such debates rarely affect international treaties, a fact which makes one treat them as intellectual entertainment

²⁸ UN GENERAL ASSEMBLY, *Report of the Special Rapporteur of the Human Rights Council on the rights of indigenous peoples on the impact of international investment and free trade on the human rights of indigenous peoples* (August 7, 2015), A/70/ 301, item 301.

²⁹ International Covenant on Economic, Social and Cultural Rights, opened for signature at New York on 19 December 1966, *Journal of Laws of 1977*, No. 38, item 169.

³⁰ At this point, we should invoke the 2003 United Nations Convention against Corruption. It clearly emphasises solutions designed to reduce the scale of corruption, for example, by promoting transparency and accountability in private and public management; see <https://eur-lex.europa.eu/legal-content/PL/TXT/?uri=LEGISSUM:l33300> [accessed September 25, 2018].

³¹ U. BAXI, "Too many, or too few, Human Rights?" *Human Rights Law Review* 1, no. 1 (2001): 1–10.

³² S. TULLY, "The Human Right to Access Electricity," *The Electricity Journal* 19, no. 3 (2006): 30–39.

³³ P. DE HERT, "Internet (access) as a new fundamental right. Inflating the current rights framework?" *European Journal of Law and Technology* 3, no. 3 (2012), accessed June 18, 2017, <http://ejlt.org//article/view/123/268>.

rather than postulates that would have an imprint on the system of human rights protection.³⁴ Nevertheless, their implementation may serve as a litmus test for the ongoing civilizational change, and thus make lawyers reflect on the significance of particular phenomena for the organization of social life and individual autonomy. This is the case with the right to financial inclusion and the right to credit.

The right to credit, as advocated by its supporters,³⁵ stems from the fact that poverty makes it impossible to meet basic living needs, such as food, shelter, health or education. At the same time, poverty does not usually occur through somebody's fault, but depends on socio-economic factors, which make it impossible for individuals to receive remuneration for work in the appropriate amount, or one enabling the implementation of other rights as laid down in the International Covenant on Human Rights. In this light, credit is a means of restoring individuals' ability to shape their life—it increases access to education, improves health and prepares for a career. Credit may also help to equalise the opportunities of people from marginalized groups (e.g. the poor or inhabitants of rural areas), while the dependence of the possibility of obtaining credit on the economic situation of an individual additionally deepens the existing stratification in society. Similar arguments, but with regard to banking services in general, are raised by promoters of financial inclusion.³⁶

Those who are in favour of establishing these rights must be credited with a certain logic and legitimacy behind their demands. It should also be noted that the Commissioner for Human Rights of the Council of Europe, in his speech of 2014 referring to the situation of young people on the labour market, pointed out that individual autonomy has a financial dimension,³⁷

³⁴ It should be remembered, however, that sometimes these discussions lead to the emancipation of new rights, for example, the right to water, albeit not explicitly mentioned, is recognised as one of the elements of the normative content of Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights. Today, the right to water is a well-established concept in the doctrine of human rights; see COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, General Comment No 15: The right to water, January 20, 2003. E/C.12/2002/11.

³⁵ O. BAYULGEN, "Giving Credit Where Credit Is Due: Can Access to Credit Be Justified as a New Economic Right?" *Journal of Human Rights* 12, no. 4 (2013): 491–510.

³⁶ J. QUERALT, "A Human Right to Financial Inclusion," in *Ethical Issues in Poverty Alleviation*, ed. H.P. Gaisbauer, G. Schweiger, and S. Sedmak (no place of publication: Springer International Publishing, 2016), 77–92.

³⁷ N. MUIŽNIEKS, "Youth human rights at risk during the crisis (June 3, 2014)," accessed June 18, 2017, <http://www.coe.int/en/web/commissioner/-/youth-human-rights-at-risk-during-the-crisis>.

and in the report presented in March 2017 before the Congress of Local and Regional Authorities of Europe (an advisory body of the Council of Europe), the concept of financial autonomy was given plenty of attention—for example, its components such as financial independence³⁸ were indicated. Undoubtedly, access to banking services, including credit, can enable the achievement of such independence. Such services can not only contribute to the equality of opportunities but also make it possible to implement a whole list of human rights. However, the proposals of supporters of the new economic rights give rise to the conviction that the existing regulations do not provide sufficient protection of individuals. Is that really the case?

A review of the recommendations formulated by the treaty monitoring bodies supervising the implementation of individual treaty provisions in the area of human rights leads to a contrasting conclusion. Financial services are also addressed by those recommendations. Moreover, the individual committees point to the utility of specific banking services in the resolution of specific problems. For example, the Committee on the Elimination of Discrimination against Women indicates the need to ensure equal access to loans, mortgages and other forms of bank credit for both sexes.³⁹ It is also pointed out that high interest rates on student loans have a negative impact on access to education.⁴⁰

The Committee on Protection of the Rights of All Migrant Workers and Members of Their Families recommended a reduction in commissions and fees for bank transfers in line with Goal 10.c set in the Millennium Development Goals. The Committee also drew attention to the problematic operation of informal banks and the lack of information on existing interbank agreements which streamline the transfer of money from migrant workers to their families living abroad.⁴¹ Finally, the Committee on Economic, Social and Cultural Rights, in its reading of the report on Norway, pointed out that the

³⁸ CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE. *Forever young? The role of youth policies and youth work at local and regional levels in supporting young people's transition to autonomy and working life* (March 29, 2017), 7.

³⁹ COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, *Concluding observations on the sixth periodic report of Equatorial Guinea* (November 9, 2012), CEDAW/C/GNQ/CO/6, 6.

⁴⁰ IDEM, *Concluding comments on the sixth periodic report of New Zealand* (November 9, 2012), CEDAW/C/NZL/CO/6, item 6.

⁴¹ COMMITTEE ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES, *Concluding observations on the initial report of Mauritania* (May 31, 2016), CMW/C/MRT/CO/1, items 52–55; IDEM, *Concluding observations on the initial report of Turkey* (May 31, 2016), CMW/C/TUR/CO/1, item 74.

government should ensure that the operation of the Norges Bank Investment Management investment fund in third countries is subject to comprehensive human rights risk assessment (both before and during the investment).⁴²

The examples indicated above demonstrated that, at least at the UN level, the relationship between the individual, a bank and state is the subject of recommendations made by the various treaty bodies. This means that, in the extent that individual banking services are tools for the realisation of human rights, they fall within the scope of the regulation of a respective treaty. The establishment of new laws, such as the right to credit and the right to financial inclusion, is only legitimate if we consider that they should not be “merely” means of enforcing other rights, but autonomous rights, creating an obligation on the part of the State to respect, protect and fulfil them.⁴³ The use of the three-tier concept of human rights implementation raises the question of how the *duty to fulfil* would be interpreted in the case of the right to credit—would the State be obliged to guarantee access to credit for every individual? If so, on what terms? Should it be permissible to impose restrictions the range of purposes for which a loan can taken out? Finally, is credit the only and best means of ensuring the autonomy of the individual in shaping their life? Those in favour of extending the catalogue of human rights should also bear in mind the negative impact of the phenomenon of “human rights inflation” on the international system human rights protection.⁴⁴

⁴² COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, *Concluding observations on the fifth periodic report of Norway* (December 13, 2013), E/C.12/NOR/CO/5, item 6.

⁴³ Pursuant to the three-tier concept of human rights implementation, the state’s primary duty is to respect a specific right by refraining from any activity which would hinder the exercise of the right by an individual (e.g. abolition of legal barriers restricting access of a specific category of entities to banking services). At the second level, the “duty to protect” requires that the State should guarantee respect for a specific right by third parties (e.g. by establishing a law governing the maximum amount of credit). At the last level, the “duty to fulfil” obliges the State to undertake actions aimed at ensuring universal availability of a specific right (e.g. free access to certain basic services). See O. DE SCHUTTER, *International Human Rights Law: Cases, Materials, Commentary* (Cambridge: Cambridge University Press, 2014), 281–91.

⁴⁴ HENRY JACKSON SOCIETY, “Human Rights Inflation: Why the International Human Rights Regime Risks Impoverishing Liberty,” accessed June 18, 2017, <http://henryjacksonsociety.org/2013/07/16/human-rights-inflation-why-the-international-human-rights-regime-risks-impoverishing-liberty-2>.

CONCLUSION

The animated debate of late on economic rights and the role of financial institutions (especially banks) in ensuring individual exercise of rights is not limited merely to the formulation of bold views by the doctrine (the right to credit) but it is put into practice. This is evidenced by the activity of individual treaty bodies, which recognise that the existing regulations constitute the legal basis for formulating recommendations concerning, among other things, the availability of banking services or the obligations of financial institutions to carry out analyses of the impact of their activities on human rights. An additional instrument—in response to the rapid growth of financial institutions in the global economy and the need to reinforce protection of individuals—is the Guiding Principles on Business and Human Rights adopted in 2011. The path taken by the international community indicates that in the future we may expect further regulatory action aimed at strengthening the protection of individuals.

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FINANCIAL INSTITUTIONS AND INDIVIDUAL AUTONOMY
—A HUMAN RIGHTS PERSPECTIVE

Summary

This paper seeks to provide a systematic analysis of the changing relations between financial institutions, banks in particular, and individuals in the 20th and 21st centuries. The first part of the study presents the history of relations between the state, financial institutions and individuals in the twentieth century, while the second part is devoted to the changes that have taken place internationally in this area in the 21st century in the activities of non-state actors, including financial institutions, as more and more often obligations in the field of human rights protection are being emphasised. The attribution of such responsibility indicates the fact that the international

community is seeking to strengthen the protection of individual autonomy. This is also confirmed by the analysis of the final observations formulated by treaty bodies functioning within the UN system of human rights protection.

Key words: business; economic rights; United Nations; banks.

Translated by Tomasz Pałkowski



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