



Human Rights Insights No. 1

Human Rights and Poverty: Is poverty a violation of human rights?

Poverty is an assault on human dignity, but it can also reflect a violation of human rights when it is the direct consequence of government policy or is caused by the failure of governments to act. A human rights approach to poverty calls for a paradigm shift in how we understand and address poverty.

“Extreme poverty to me is the greatest denial of the exercise of human rights. You don't vote, you don't participate in any political activity, your views aren't listened to, you have no food, you have no shelter, your children are dying of preventable diseases - you don't even have the right to clean water. It's a denial of the dignity and worth of each individual which is what the Universal Declaration proclaims.”
(Mary Robinson, 2002)¹

Around the world, more than 443 million people live in the peril of chronic poverty, barely able to secure their family's survival. The number of people suffering from poverty has increased by 40% over just the last five years.² Every day 50,000 children, women and men die silently from easily preventable diseases associated with poverty - starvation, diarrhea, malaria, tuberculosis, pneumonia, measles and death in childbirth.³ The lives of people living in extreme poverty are continuously threatened by lack of food, the risk of disease, hazardous work and precarious living conditions. They experience violence of all types, including discrimination, attacks, harassment, humiliation and sometimes even threats of death, often just because they are poor.⁴

Yet, poverty is not always treated as a human rights issue. In fact, it is often seen as tragic but inevitable, especially in the poorer developing countries. The blame for poverty is frequently laid at the door of those who suffer from it, as they are portrayed at best as unfortunate, or at worst as lazy, undeserving or even criminal.⁵ There is little effort to look beyond this narrative to examine why poverty persists in a world that is richer than ever before.

It has been forcefully argued that, “When someone is tortured or when a person's right to speak freely is restricted, observers almost unconsciously hold the State responsible. However, when people die of hunger or thirst, or when thousands of urban poor and rural dwellers are evicted from their homes, the world still tends to blame nameless economic or ‘developmental’ forces or the simple inevitability of human deprivation, before liability is placed at the doorstep of the State. Worse yet, victims of such violations are increasingly blamed themselves for creating their own dismal fates, and in some countries even characterised as criminals on this basis alone”. (Scott Leckie, 1998)⁶

A human rights approach to poverty calls for a paradigm shift in how we see and address poverty. It suggests that poverty is not simply inevitable, nor can it only be blamed on the poor. It seeks to identify where poverty is created by human actions or policy choices, rather than by nameless economic forces. A human rights approach views poverty not as a question of fate, but rather as issue of justice. It demands that we reject the view that poverty is inevitable, but rather look at why poverty persists. With a human rights approach, we must investigate, and demand accountability for, the actions (or failures to act) that produce, perpetuate and exacerbate poverty.

Why should we focus on human rights?

Human rights are about accountability. Human rights focus on holding governments, and other actors, accountable for their actions. The human rights framework also focuses on empowerment – giving voice and power to those who are poor and otherwise unable to claim their rights.

A human rights approach to poverty demands a shift in our consciousness and understanding:

- Away from a vision based on charity to one based on obligations and responsibilities
- Away from viewing people as objects of development to viewing people as subjects of human rights
- Away from seeing poverty as an inevitable tragedy to seeing it as an intolerable injustice.

Human rights also provide us with a multidimensional normative framework to evaluate human well-being. Although human rights were traditionally associated with **civil and political rights**, human rights law includes a wide range of **economic, social and cultural rights**, as set out in the Universal Declaration on Human Rights and the **International Covenant on Economic, Social and Cultural Rights**. A renewed focus on economic, social and cultural rights will help to ensure that poverty is addressed as a priority by governments.

What do we mean by poverty?

Poverty has traditionally been defined in terms of **low income**. However, poor people generally see poverty through its different manifestations of **deprivation** - "hunger, undernutrition, illiteracy, unsafe drinking water, lack of access to basic health services, social discrimination, physical insecurity and political exclusion."⁷ They are also acutely aware of their **lack of voice and power** that leaves them open to exploitation and humiliation.

The Indian economist, Amartya Sen, has pushed for an understanding of poverty that moves away from an income-based measure towards a broader conception of **human development**. This sees poverty as the denial of **capabilities** and freedoms to achieve what each individual is capable of. Sen argues that a person's freedom to achieve good health requires firstly, that their health is not harmed by others (negative freedom) and secondly, that an enabling institutional environment for good health is created by societies and governments (positive freedom).⁸ This links Sen's work closely to the human rights concepts of negative and positive obligations.⁹

Recognition of processes of **social exclusion** has also broadened the understanding of poverty to highlight how some people are systematically excluded from opportunities or the benefits of development because of who they are or where they live. This brings an understanding of unequal social relations and the dimension of a power into the understanding of poverty. Social exclusion is closely linked to the human rights concept of discrimination.¹⁰ Arjun Seggupta, the former UN Independent Expert on Extreme Poverty, has defined extreme poverty as a combination of all of these aspects – income poverty, human development poverty and social exclusion.¹¹

Whilst **extreme** or **absolute poverty** (where families cannot meet even their basic survival needs) exists mostly in poor developing countries, **relative poverty** exists also in rich countries where families live with "resources that are so seriously below those commanded by the average individual or family, that they are in effect excluded from ordinary living patterns, customs and activities".¹² In this sense, poverty is relative to the resources that you need to effectively participate in the society and culture that you live in. This is closely linked to self-respect and the human rights concept of **human dignity**.

The Committee on Economic, Social and Cultural Rights includes all of these aspects, defining poverty as the negation of all human rights, including civil and political rights, as well as economic, social and cultural rights:

"Poverty is a human condition characterised by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights"¹³ (Committee on Economic, Social and Cultural Rights, 2001)

It is important nonetheless to retain the understanding that poverty-related deprivations are deprivations that are related to the lack of income or access to other productive or economic resources. Otherwise, poverty and human rights are conflated, and mean one and the same thing. As the the UN Office of the Higher Commissioner of Human Rights emphasises:

"...while poverty implies a low level of well-being, not every case of a low level of well-being can be regarded as poverty. For example, while the absence of the capability to live a healthy life is certainly a case of a low level of well-being, the specific case of ill-health caused by a genetic disorder (for which no remedy currently exists) will not in itself be recognized as poverty; whereas ill-health caused by lack of access to basic health-care resources will be. In general, for poverty to exist, lack of command over economic resources must play a role in the causal chain leading to a low level of well-being". (OHCHR, 2004)¹⁴

Is poverty a violation of human rights?

Despite urgent calls to put poverty at the centre of the global human rights agenda, especially from Mary Robinson and later from Louise Arbour, in their respective roles as UN High Commissioner for Human Rights, there has long been a lack of clarity within the human rights movement as to the linkages between human rights and poverty.

Some have argued that "Poverty is a cause and consequence of human rights violations",¹⁵ while others contend that "Poverty is itself a violation of Human Rights".¹⁶ These arguments, which are not necessarily mutually exclusive, suggest that violations of human rights can be cause, consequence or constitutive element of poverty:

1. **Cause:** This suggests that poverty causes human rights violations – those living in extreme poverty are not treated as human beings worthy of human rights, and are discriminated against, often exploited, marginalized and stigmatized, and denied access to rights and resources on the basis of their poverty.
2. **Consequence:** This suggests that poverty is a consequence of human rights violations or in other words, that human rights violations cause poverty. Violations of human rights e.g. forced eviction from homes or land, or the destruction or denial of access to productive resources can clearly cause poverty.
3. **Constitutive:** This argument suggests that poverty, especially extreme poverty, is in itself a negation of human dignity and therefore a denial of human rights. Under this view, it is unacceptable to let any human being live in conditions of degrading deprivation, as neither their physical well-being nor their human dignity is protected.

Drawing out the distinctions between these approaches is more than a semantic exercise because it has important practical implications for the way in which public policies and programmes are designed to address human rights within the context of poverty reduction strategies.¹⁷ What brings these approaches together however, is the growing understanding that "It is the poorest people in society --- those with low incomes, education, insecure health, and political power --- who are most vulnerable to severe abuses of their human rights."¹⁸

Answering the question of whether poverty itself is a violation of human rights depends on how we define 'human rights' and 'poverty'. If human rights are understood narrowly to include only civil and political rights, then the relationship with poverty will be framed in a very different way than if human rights are understood to include the full range of rights, including economic and social rights. Similarly, when the definition of poverty is broadened to include the deprivation of capabilities, then its relationship with the negation of human rights, especially economic and social rights, becomes clearer. In this analysis, we use the broader definitions of both poverty (that goes beyond income) and human rights (that includes ESC rights).

Answering this question also depends on how we define a 'violation' of human rights. Many have argued that it is simplistic to suggest that *all* people living in poverty have suffered from a human rights **violation**. This would be problematic because it again simply conflates poverty and human rights, treating them as one and the same thing. This is particularly the case in relation to economic and social rights. For this reason, Kenneth Roth, executive director of Human Rights Watch, has warned against 'sloganeering' about economic and social rights. As he suggests, we cannot simply say "People lack medical care; therefore..their right to health has been violated" or "People lack shelter; therefore.. their right to housing has been violated".¹⁹ The simple fact of non-fulfilment or non-enjoyment of rights does not necessarily constitute a *violation* of human rights.

Drawing a distinction between the 'non-enjoyment' and the 'violation' of human rights

In contrast to moral philosophers who understand the term 'violation' in the broad sense of violating conceptions of social justice and moral duties, human rights advocates prefer to tie down the term 'violation' to the much stricter legal sense of violating the provisions of human rights law.

From a legal human rights perspective, it may therefore be useful to draw a distinction between the **non-enjoyment** of human rights and the **violation** of human rights. To establish a **violation** under human rights law, we would have to examine whether human rights obligations have been violated. To determine a violation, we first have to identify a specific human right, identify the duties imposed by that right on governments – or other actors - and then identify whether there has been a breach in meeting those duties.

Using such a distinction between **non-enjoyment** and **violation**, we can say for example that people who cannot afford access to medical care are deprived of enjoying their right to health, but we cannot state that they have suffered from a **violation** of those rights, unless we have identified a breach of human rights obligations (whether through acts of commission or omission). In the same sense, the half a million women who die in childbirth every year are clearly deprived of their rights to life and to health, but we cannot call this a violation until we have established that the state, or other actor, is responsible for failing to meet its obligations.

Before determining a 'violation', we also have to look at the intentions and efforts of the state or other actors. An analysis of **actions and efforts** is fundamental in determining whether or not the non-enjoyment of certain rights constitutes a violation. As many poverty-related violations are closely related to **available resources**, we have to distinguish the **inability** from the **unwillingness** of a state to realize those human rights. We cannot call poverty-related deprivations a violation if a government has the political will to take action but does not have the economic resources or physical capacity to take such action.

We can therefore argue that, while poverty and its different manifestations (hunger, illiteracy etc) always reflect the non-enjoyment of human rights and an affront to human dignity, they often but not always, reflect a violation of human rights. *From this perspective the violation consists, not in poverty itself, but in the failures of governments to prevent poverty (when this would have been possible), or in the concrete actions taken that produce or perpetuate poverty.*

"Poverty is not, in itself, a violation of human rights. However, government action or inaction leading to poverty, or government failure to respond adequately to the conditions that create, exacerbate and perpetuate poverty and marginalization often reflect – or are closely connected with – violations or denials of human rights." (Braveman and Gruskin, 2003)²⁰

Why is it a challenge for human rights organizations to address poverty issues?

Even as the human rights community has begun to embrace a new focus on poverty issues and on economic, social and cultural rights, human rights organizations have faced a number of distinct challenges:

1. **The range of rights involved:** If poverty is defined as the denial or violation of a whole range of rights – economic, social and cultural rights, as well as civil and political rights – then it is easy to lose focus and clarity. Some still argue that economic, social and cultural rights are ill-defined and they see no clarity over what constitutes a 'violation' of state obligations in the context of economic, social and cultural rights.
2. **The range of actors responsible:** The human rights framework is traditionally focused on state responsibility, but poverty issues frequently involve a wide range of other actors, including private corporations, social institutions and public actors at the local, regional, national and international levels. This makes it difficult to ascertain who is responsible for what. Some argue that for poverty-related issues, there is no easily identifiable perpetrator or individual violator of the rights.
3. **The range of determinants and causes of poverty:** Poverty often has overlapping and multiple determinants that cannot all be ascribed to state or non-state actors. The causes of poverty can be hotly debated and contested at ideological and empirical levels, which makes it difficult to trace accountability and attribute responsibility. Some see poverty as the unintended result of blameless economic forces for which no specific actor can be held responsible. Others see poverty as the fault of the poor themselves who should therefore take responsibility for themselves.

However, significant progress has recently been made in addressing these challenges:

1. The range of rights and duties imposed by ESC rights have been clarified:

If poverty is defined not only as low incomes, but as including a whole range of deprivations – hunger, undernutrition, illiteracy, unsafe drinking water, lack of access to basic health services, social discrimination, physical insecurity and political exclusion – then poverty is linked to denials of the full range of civil, political, economic, social and cultural rights. To retain clarity and focus however, poverty-related violations can be addressed through the most relevant right and filtered through the lens of the relationship to the lack of resources.

For example, poverty-related illiteracy can be addressed through the right to education, even though not all violations of the right to education are linked to poverty. Similarly, hunger and malnutrition can be addressed to the right to adequate food, but also through other rights such as the right to adequate work or the broader right to an adequate standard of living.

Great strides forward have recently also been made in defining the core content of economic, social and cultural rights, and clarifying what constitutes a violation of these rights. The **General Comments** by the Committee on Economic, Social and Cultural Rights define both the core elements of ESC rights and the specific duties imposed by the rights: **the duties to respect, protect and fulfil**.²¹ This makes it much easier to establish violations of economic, social and cultural rights. The 1997 **Maastricht Guidelines on Violations of Economic, Social and Cultural Rights** have also helped to clarify a framework for establishing violations.²²

3 levels of Human Rights obligations:

Respect: This means refraining from harming the enjoyment of human rights.

Protect: This means ensuring that third parties (non-state actors) do not infringe the enjoyment of human rights.

Fulfil: This means taking positive steps to progressively realize human rights.

Traditionally, civil and political rights were seen as imposing only **negative duties** (duties to refrain from abusing people’s rights), whereas economic, social and cultural rights were seen as imposing only **positive duties** (duties to assist). But the duties to respect, protect and fulfil rights challenge this distinction, showing that all human rights include both negative and positive duties. The **duty to respect** is a negative duty to do no harm. The **duty to protect** is a positive duty to prevent third parties, such as private corporations, from harming individuals (e.g. through regulation). The **duty to fulfil** is a positive duty to take steps to implement policies and programmes to improve the realization of human rights.

When we focus on the different types of duties to respect, protect and fulfil human rights and see these as obligations of governments, it becomes easier to identify different types of violations. This table gives an overview of possible types of actions and inactions (acts of commission or omission) that create, exacerbate or perpetuate poverty and may therefore constitute a violation of specific human rights:

Obligation	Violation
Duty to respect	State actions that cause poverty or affect the poor most severely <ul style="list-style-type: none"> • Eviction of people from their homes/lands • Deliberate exclusion from access to productive resources
Duty to protect	State actions (or inactions) that fail to protect individuals from actions of non-state actors that cause poverty e.g. <ul style="list-style-type: none"> • Failures to hold corporations to account • The lack of an adequate regulatory framework
Duty to fulfil	State actions (or inactions) that fail to alleviate poverty, e.g.: <ul style="list-style-type: none"> • The absence or inadequacy of policies and programmes • The lack of appropriate government expenditure, in cases where resources are available.
Duty of non-discrimination	Actions or inactions that have discriminatory effects or fail to prevent discrimination and therefore cause poverty

This also shows that ESC rights are not always costly to implement. Economic and social rights were traditionally seen as involving heavy financial costs and were therefore qualified as being subject to ‘progressive realisation according to the maximum of available resources’, but certain aspects of ESC rights are not costly:

- The **duty to respect** is the negative duty to do no harm, which does not have heavy resource implications.
- The **obligation of non-discrimination** in relation to ESC rights is an immediate obligation, not subject to resource limitations.
- The **obligation to ensure minimum essential levels** of ESC rights must also be given priority, limiting flexibility in the allocation of resources.²³

Most human rights organizations working on ESC rights have so far focused on establishing violations in relation to the obligations to respect and protect, as it is comparatively easy to identify the victim, the perpetrator and the remedy. For example, many organizations have focused on arbitrary or discriminatory state actions such as forced evictions – which violate the **duty to respect** the right to housing. Others have worked on a range of cases where corporations have violated people’s rights – which violates the state’s **duty to protect** its citizens.

Analysing and establishing violations of the **duty to fulfil** is more challenging, but it is essential in the context of poverty. It is challenging because it involves moving away from traditional human rights monitoring of ‘event-based’ violations to undertaking ‘long-term monitoring’ of public policies related to poverty, health, education and other issues. It requires new methodologies to measure progressive realization over time and to analyse public budgets in order to assess the allocation of available resources. It also requires analysis of deliberate failures to act, or what are otherwise acts of omission. Despite these difficulties, substantive progress is now being made on the development of new methodologies to address these challenges by many organizations, including CESR:

- See **CESR’s Monitoring Toolkit** at www.cesr.org/Tools

2. The human rights framework is being extended to hold a wider range of actors to account:

The human rights framework has traditionally focused on holding states to account and therefore the primary responsibility for protecting human rights lies with our governments. However, poverty-related issues often involve a wide range of other non-state actors, including private corporations. As Mary Robinson has suggested, “business decisions can profoundly affect the dignity and rights of individuals and communities.”²⁴ UNDP’s 2002 Human Development Report also argued that “global corporations can have enormous impact on human rights – in their employment practices, in their environmental impact, in their support for corrupt regimes or in their advocacy for policy changes”.

Through the **duty to protect** their citizens, governments have a responsibility to prevent violations by non-state actors and are therefore responsible for regulating the activities of public and private actors. However, under traditional approaches to human rights, it has been difficult to hold non-state actors directly accountable under human rights law, as they are not parties to human rights treaties. But as many non-state actors have become more powerful than states in the international and national arenas, there has been growing pressure for the human rights framework to be extended to non-state actors “Making space in the legal regime to take account of the role of non-state actors is one of the biggest and critical challenges facing international law today”.²⁵

In response to these new pressures, many corporations have now agreed to voluntary codes of conduct such as the **UN Global Compact** or the **OECD Guidelines for Multinational Enterprises**. New developments within international human rights law have also shown that it is possible to hold corporations to account for **complicity in human rights abuses** by the state, particularly where they participate deliberately and where there are foreseeable harmful effects.²⁶ The development of a normative framework for the direct accountability of private corporations has also moved forward with the adoption of the **Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights**, by the UN’s Sub-Commission on the Promotion and Protection of Human Rights on 13 August 2003²⁷.

Other international public actors, such as the international organizations of the IMF, the World Bank and the WTO, also hold enormous influence on the policies and programmes of national governments, and can therefore circumscribe government efforts to realize human rights. As OHCHR has argued for example, WTO rules can have significant impact on the policies that governments can choose to realise the right to food.²⁸ Human rights scholars have shown how these international organizations do have legal personalities under international law and may therefore be held accountable for human rights obligations.²⁹

At the very minimum, it is now widely agreed that non-state actors must be held to account for the duty to respect human rights – that is the duty to refrain from causing harm, especially where this creates or exacerbates poverty. As many much case law shows, it is possible to hold non-state actors accountable for violations that consist of concrete actions taken that have created or exacerbated poverty.³⁰ Nonetheless, this briefing retains a state-focused approach in order to highlight the state’s duty to protect its citizens.

3. The wide range of determinants of poverty does not relieve the State of responsibilities to address these determinants:

Poverty often has overlapping and multiple determinants which cannot all be attributed to the state. However, whilst it is true that poverty has many determinants, this cannot be used as an excuse by governments to do nothing. It does not relieve governments of their responsibility for addressing the various determinants of poverty, nor does it relieve them of their responsibility to examine policy choices to ensure that they have not created, exacerbated or perpetuated poverty. As Louise Arbour has argued:

“Poverty and exclusion is too readily accepted by majorities as regrettably accidental, or natural or inevitable, or perhaps even the fault of the poor, rather than the outcome of conscious policy choices.” (Louise Arbour, 2008)

Conscious policy choices can cause poverty in **foreseeable** - and therefore **avoidable** - ways. From this perspective, we cannot argue that poverty is always inevitable because it is often the result of conscious policy choices; it is not simply a natural disaster, but a ‘human-made’ disaster. Louise Arbour cites for example the Human Development Report’s 2005 criticism of how agricultural subsidies in northern developed countries are causing poverty in southern, developing countries. Governments in the north are consciously choosing policies that foreseeably cause poverty. As Thomas Pogge argues, this could be seen as a violation of the negative **duty to do no harm** (duty to respect). He argues that governments have a duty to refrain from participating in an unjust institutional system when that participation helps to produce or perpetuate worse conditions for the poor.³¹

Economists often identify a wide range of **determinants of poverty** that focus on the **immediate (or proximate) causes** of poverty – such as low levels of education or lack of access to land. But an analysis of the determinants of poverty must also include an understanding of the underlying determinants or the **deeper, structural causes** of poverty which in turn explain those proximate causes.³² In other words, rather than accepting low education as an explanation of poverty, we must go deeper and ask why do people have low levels of education in the first place? Because they could not afford school fees or because as girls they suffered from discrimination? Similarly we must ask why do people lack access to land. Because they have been displaced by more powerful landlords, or because they have been discriminated against? Human rights help us to reframe the determinants of poverty (such as low education) not as fixed ‘givens’, but as manifestations of poverty and the result of possible violations of human rights (through acts of commission or omission) in and of themselves.

With a human rights approach, we must therefore first identify the determinants of poverty in a particular situation, context or country, as well as the underlying determinants, and then examine what the government is doing to address these different determinants. If the government is failing to address these determinants of poverty, then we must analyse whether these failures are due to a lack of capacity and resources, or whether they are due to a lack of political will, before we can establish whether a violation of particular human rights has occurred. In cases where there is a lack of political will, we can go even further to identify the political and economic interests that lie behind government failures to act – which means analysing the political economy and power structures within and between countries that constitute poverty. This brings an **analysis of power** into the human rights approach, demanding that we look at why poverty persists.

When does poverty reflect a violation of human rights?

Many would prefer to blame poverty on nameless economic forces or other determinants outside of human control. But in recognizing that poverty is often created by human actions or conscious policy choices, a human rights approach to poverty demands that we investigate, and demand accountability for the policy choices, actions or failures to act that produce, perpetuate and exacerbate poverty. From this perspective, eradicating poverty is not simply a question of more development, more growth, more charity or more aid, it is rather a question of righting wrongs, and holding governments – or other non-state actors - to account.

As we saw above, poverty and its different manifestations (as hunger, illiteracy, premature mortality etc.) reflect an affront to human dignity and the **non-enjoyment of human rights**, especially of the different economic and social rights of the millions of people that suffer from these deprivations. However, poverty is not in and of itself a violation. Rather the **violation occurs when certain (usually government) actions or inaction breaches human rights obligations in a way that creates, exacerbates or perpetuates poverty**. As discussed above, we cannot argue that simply because people suffer from poverty-related deprivations, such as the lack

shelter or illiteracy, that their rights to housing or to education have necessarily been violated. We first have to identify the government's actions or failures to act that amounted to a breach of their obligations to respect, protect or fulfil specific human rights, such as the rights to housing and education.

To answer the question of when poverty reflects a violation of human rights, we therefore have to analyse when government actions, policy choices or deliberate failures to act breach obligations under specific human rights. However, when we are analysing the links between human rights and poverty, we find that this analysis means addressing a much wider range of issues than are traditionally addressed by human rights organizations. With the examples below, we start first with certain types of violations that are more familiar to traditional human rights work, before moving on to highlight different types of issues such as corruption, skewed allocation of resources or elite capture – that are often not seen as human rights issues – yet become very important if we try answer the question of when does poverty reflect a violation of human rights:

1. Forced eviction and displacement

*Forced displacement in India: Programmes to construct dams cause poverty*³³

"When I am on a boat in the middle of the reservoir, and I know that hundreds of feet below me, directly below me, at that very point, lie my village and my home and my fields, all of which are lost forever, it is then that my chest rips apart, and I cannot bear the pain...." [A record of Nanhe's story as told to the paper writer in resettlement village Aitma in 1997]

(More than).. 50 years of planned development in India have entailed large-scale forced evictions of vulnerable populations, without the countervailing presence of policies to assist them to rebuild their lives. Most of the negative aspects of displacement, such as lack of information, failure to prepare in advance a comprehensive plan for rehabilitation, the undervaluation of compensation and its payment in cash, failure to restore lost assets or livelihoods, traumatic and delayed relocation, problems at relocation sites, multiple displacement, and neglect of the special vulnerabilities of the most disadvantaged groups are in fact the direct result of state policy."

One of the clearest examples where deliberate actions of the government or state policy produce poverty is the case of forced eviction or forced displacement, where people are forcibly removed from their homes and lands and their livelihoods are destroyed. This usually amounts a violation of the government's **duty to respect** specific human rights, notably the **right to adequate housing** and the **right to freedom from hunger**. As in the case of Nanhe's story in India (see box), eviction often goes hand in hand with a failure of governments to have adequate policies in place to compensate the loss of homes, lands and livelihoods, further exacerbating poverty. In many of these cases, proper due legal process and the provision of adequate information and remedy is not followed. In this, not only are specific human rights directly violated, but the human rights principles – of **human dignity, participation, transparency and accountability** are also violated, as is the principle of **equality before the law** as the rights, including property or traditional usufruct rights of these people are ignored simply because they are poor. The Committee on Economic Social and Cultural Rights defines forced evictions as "the permanent removal against their will of individuals, families and/or communities from the homes and/or which they occupy, without the provision of, and access to, appropriate forms of legal or other protection".³⁴

*Forced displacement of indigenous peoples: The Kalimantan Border Oil Palm Mega-project*³⁵

"Indonesia plans to develop 850 kilometers of land along the Indonesia-Malaysia border in Borneo as part of the Kalimantan Border Oil Palm Mega-project. The UN has identified 1.4 million Indigenous people who would be displaced, and up to 5 million who could be adversely affected by the proposed mega-project and other large-scale investments in biofuel expansion. A recent report to the United Nations Committee on the Elimination of Racial Discrimination states: "Experience with existing and extensive oil palm plantations in other parts of Indonesia conclusively demonstrates that Indigenous peoples' property and other rights are disregarded, their right to consent is not respected, some are displaced, and they are left with no alternative but to become de facto bonded labourers gathering oil palm fruit for the companies that manage the plantations." The report goes on to claim a strong likelihood of significant displacement of Indigenous persons "resulting from a pattern of racial discrimination or encroachment on the lands of minority communities," and a substantial threat of immediate and irreparable harm to Indigenous peoples in the affected area."

Frequently, the people who are forcibly displaced are already poor, marginalized and excluded (often indigenous peoples) who have little power to make their voices heard to change government policy. Where forced displacement has disproportionate effects on a particular social group, this may also constitute a direct violation of a government's **duty of non-discrimination**.

2. Failures to protect against violations by corporations

Livelihoods of the Ogoni people are being destroyed by irresponsible oil development³⁶

The Ogoni people of Nigeria live in the Niger Delta in the Southeastern part of Nigeria, eking out their survival as farmers and fisherfolk, with their livelihoods and welfare intricately bound to the health of surrounding rivers, streams and soil. But, over the past two decades the welfare of Ogoni communities has been seriously damaged by irresponsible oil development by a joint consortium between the Nigerian National Petroleum Corporation (NNPC) and Shell. The NNPC-Shell consortium, operated by Shell, has caused massive and systematic social and environmental harms. Pipelines have been laid with no regard for local communities, passing above ground through villages and crisscrossing lands that were used for growing food. Both the soil and waterways in Ogoniland have been polluted by chronic oil spills and unlined toxic waste pits that have left lands and waters infertile and economically useless, depriving the Ogoni of their principal food sources. Far from benefiting from Nigeria's oil wealth, the Ogoni have suffered harm from the destruction of their lands and livelihoods and sometimes even their lives, given violent repression of to Ogoni protests with security forces attacking, burning and destroying several Ogoni villages.

Another clear example of how government action, or often inaction, can harm livelihoods and result in even greater poverty amongst communities occurs where powerful corporations violate human rights with impunity, unrestrained by government control and regulation. In the case of the Ogoni people, the destruction and poisoning of lands and waterways has caused great harm and poverty in the Ogoni delta, even as wealth is created through oil development. In failing to act to prevent harm to the Ogoni people, the government of Nigeria has through its own inaction violated its **duty to protect** the Ogoni. But in working in partnership with Shell and using Nigerian armed forces to violently repress Ogoni opposition, the actions taken by the government and of the corporation have also violated the **duty to respect** the human rights of the Ogoni people, including violations of **civil and political rights** as well as **economic, social and cultural rights**. In its judgement on this case brought by CESR and SERAC, the African Commission on Human and People's Rights found that the Nigerian government had failed to act to prevent violations of the **right to housing** and the **right to adequate food** as well as other rights, as well as engaging in actions that directly violated these rights. For example, in relation to the right to food, the African Commission judged that:

"The government's treatment of the Ogonis has violated all three minimum duties of the right to food. The government has destroyed food sources through its security forces and State Oil Company; has allowed private oil companies to destroy food sources; and, through terror, has created significant obstacles to the Ogoni communities trying to feed themselves. The Nigerian government has again fallen short of what is expected of it as under the provisions of the African Charter and international human rights standards and hence, is in violation of the right to food of the Ogonis."³⁷

3. Corruption

Equatorial Guinea is a rich country, but its citizens suffer from extreme poverty³⁸

Since the discovery of oil in the 1990s, the tiny, little-known country of Equatorial Guinea has become one of the world's top 30 richest countries, in terms of GDP per capita. Yet, GDP per capita has no meaning in practice in this country, as this wealth is not divided evenly amongst the population. In fact, in terms of human development, Equatorial Guinea remains one of the world's poorest countries with widespread deprivations. The vast wealth from oil resources appears not been spent on improving the lives of its citizens, but seems to have been diverted directly to the private bank accounts of the President and his cronies. An investigation by the US Senate in 2004 into Riggs Bank in Washington found that the bank held over 60 accounts belonging to President Obiang and members of his government, totaling US\$700 million, almost the entire oil wealth of the country.

The deliberate diversion of government revenues into private pockets, rather than expenditure on public priorities may constitute a violation of a government's positive **duty to fulfil** human rights. In a context where resources are available (such as the resources from oil wealth), it cannot be argued that the government is constrained in the fulfilment of rights because of a lack of resources. In this case of corruption in Equatorial Guinea, much of the country's oil revenues have been diverted into the private bank accounts of those in power. Little investment in human development has left the majority of Equatorial Guinea's people in a state of poverty suffering deprivations in relation to health, education, housing and food. This may translate into a violation of the government's **duty to fulfil** a range of economic, social and cultural rights in accordance with the **maximum available resources**, including, amongst others, the **rights to food, health, education, housing and food**. The failure to prioritize available resources to the realization of these rights may also constitute a violation of the obligation of **minimum core content**. In order to maintain power and control over resources and repress opposition, the government of Obiang is also reportedly violating its **duty to respect** a whole range of **civil and political rights**.

4. Deliberately skewed allocation of resources

***Guatemala's government fails to direct expenditure to those Guatemalans most in need*³⁹**

Guatemala is a relatively wealthy country, but it has some of the worst human development indicators in the whole of Latin America. The rates of child malnutrition are so high that they are closer to the poorest African countries than the Latin American average. Guatemala also has one of the lowest level of government expenditures in the social sector in Latin America, and existing expenditure fails to target those most in need. For example, one of the key programmes to address child malnutrition, Guatemala's School Feeding programme fails to reach the poorest – only 14% of expenditure on this programme reaches those living in extreme poverty.

***Kenya's Government spends on luxury cars, rather than the rights to education and health*⁴⁰**

According to Kenya's National Commission on Human Right and Transparency International 2006's report *Living Large, Counting the Cost of Official Extravagance in Kenya*, between January 2003 and September 2004, Kenya's NARC government spent Kshs 878 million on the purchase of luxury cars for government officials, including 57 Mercedes-Benz. In this report, the Kenya National Commission on Human Rights looks at the 'opportunity cost' of this spending. Kshs 878 million would have been enough to finance 25,000 children through eight years of school. Or it could have provided HIV/AIDS treatment to 147,000 people for one year. Or it could have financed malaria treatment and prevention for Kenya's 34,000 children under age 5 who die of malaria every year.

The skewed allocation of government resources, prioritizing the wealthy over the poor, or prioritizing the interests of functionaries and bureaucrats over the needs of the population is often a deliberate act by the government and its officials that may serve to perpetuate poverty and may therefore constitute a violation of the government's **duty to fulfill** human rights, such as the **right to health** or the **right to adequate food**. This is particularly the case when a **minimum core content** has not been reached, as the first priority of all government expenditure must be to first fulfill the basic human needs for all its people. When Guatemala's government fails to ensure that government resources reach the poorest, it may be possible to prove that this constitutes also a violation of the **duty of non-discrimination**, given that the vast majority of the extreme poor in Guatemala are indigenous peoples. In Kenya, it is clear that government officials may need cars, but prioritizing the purchase of top quality Mercedes-Benz over the very basic necessities for many Kenyans suggests that the government is not prioritizing the minimum core content and failing to use the **maximum of available resources** to realize basic human rights.

5. Elite capture of state resources

***In the Philippines, agricultural policy has been beholden to elite interests, causing rural poverty to increase*⁴¹**

The introduction of green revolution technologies in the Philippines in the 1980s and 1990s was heavily biased towards powerful landholding elites who were able to influence state policy. Large and influential farmers were able to benefit most from green revolution policies, obtaining the most productive varieties of rice and access to mechanised technology in a way that increased rural unemployment and reduced wages for farm labourers, resulting in increasing rural poverty in the Philippines.

The allocation of state resources, but also the process of policy-making itself, can also be biased through a process of elite capture that can perpetuate and exacerbate poverty. In many countries, powerful elites have disproportionate influence in the development process as a result of their superior social, political or economic status. Elite capture refers to specific situations where elites effectively 'capture' state resources, or the policy-making process, in order to "shape development processes according to their own priorities". Although elite capture can involve corruption, there are many cases which do not involve corruption as such, but rather involve undue influence in deciding how resources are used, with elites privileging their own interests over the interests of the broader community or country.⁴² Although commonly understood as related to unequal power relations, elite capture has rarely been viewed as a human rights issue. Yet as in the case of the Philippines above, the government's failure to resist elite influence and failure to act to change what was effectively an anti-poor policy could be argued to constitute a violation of the **duty to fulfil**, the duty to prioritize **minimum core content** and the failure to reasonably use a **maximum of available resources** to realise the **economic and social rights** of all Filipinos. The strength of elite influence over government policies and expenditure also suggests violations of the human rights principles of **participation** and **accountability**, as well as broader **civil and political rights**.

6. Unequal impacts of macroeconomic policies

Macroeconomic structural adjustment in Canada negatively affected more women than men⁴³

During the 1980s and 1990s, Canada embarked on macroeconomic restructuring designed to reduce the role of the state in the economy through privatisation and deregulation, as well as reducing public expenditure to reduce the fiscal deficit. During this period, women's groups campaigned against these changes as cutbacks in government employment programmes and social services disproportionately affected women. In particular, as primary caregivers in most families, women were expected to absorb an increase in unpaid care work as a result of cutbacks on social services, as for example, the reduction of childcare services pushed the burden of unpaid labour onto women, rather than men, limiting their opportunities for equality of incomes. The failure of macroeconomic theory and policy to recognise unpaid care work carried out in the family reflects assumptions that fail to take into account the gendered division of labour and the costs imposed on women, pushing them further into poverty. In addition, when the fisheries industry collapsed in Atlantic Canada, fishermen were consulted and aided through a transition programme during the crisis, yet women who dominated the fish processing sector were left out of the consultations and left without equal access to assistance programmes.

Even when government policies, including macroeconomic policies, appear to be neutral and based on technical evidence, policies often reflect an implicit bias that favours one group over another, or imposes disproportionate costs on groups who are often already marginalized. Failures to permit women's participation and the exclusion of women from assistance programmes in the Canadian example above reflected the fact that economic restructuring is not gender-neutral and nor are the policy responses. Changes in macroeconomic policies can create, perpetuate or exacerbate poverty, as well as reinforce existing inequalities in ways - often in ways, as in the case of Canada above that were foreseeable in advance and argued by women's groups before, during, and after the adjustment process. Given that the effects of macroeconomic changes are often foreseeable and avoidable, these impacts cannot be simply blamed on the inevitable impacts of a neutral policy choice, but are rather the result of conscious human decisions. The case above could be argued to reflect a failure of the government to respect the rights of women and may constitute a violation of the **duty to fulfil** various human rights, given that negative impacts were anticipated and policies to ease a transition could therefore have been implemented. Given that women as a group were disproportionately disadvantaged by macroeconomic shifts, it may also be possible to argue that this would constitute a violation of the **duty of non-discrimination**.

7. Unfair international trade rules

Cultivating Poverty: US Cotton Subsidies cause poverty in Africa⁴⁴

"Cotton here is everything. It built our schools and our health clinics. We all depend on cotton. But if prices stay this low, we have no hope for the future" – the words of a cotton farmer, Logokourani village, Burkina Faso (p. 19).

American cotton subsidies, like European agricultural subsidies, are negatively affecting the livelihoods of 10 million Africans who depend on cotton in Central and West Africa. Every year America gives US\$ 3.9bn in subsidies to its 25,000 cotton farmers in the US, which allows those farmers to sell their cotton for at prices below the cost of production, driving down world cotton prices to levels that create poverty amongst African farmers trying to sell their cotton. The amount of subsidies given to a small number of rich and powerful American farmers is more than three times the amount of the entire USAID budget for Africa's 500 million people. This means that while America, like Europe, is giving aid to Africa with one hand, with the other hand it is taking away opportunities and contributing to the creation of poverty.

Oxfam: Rigged Rules and Double Standards in international trade rules

According to Oxfam's report, world trade has the potential to reduce global poverty, but currently "the rules that govern trade are rigged in favour of the rich". Rich governments "use their trade policy to conduct what amounts to robbery against the world's poor." Rich countries keep their markets closed or keep out the goods of poor countries through tariff barriers, despite their rhetoric of free trade and their imposition of these rules on poor countries. Rich countries subsidise their own agriculture, whilst poor countries are forbidden to subsidise theirs. Oxfam suggests that this costs developing countries around US\$100 billion per year – more than twice as much as they receive in aid. Oxfam argues: "None of us should be willing to accept the abuse of power, injustice and indifference to suffering that sustains those practices."

The impacts wrought by of international economic forces, such as globalisation and international trade, are also often treated as inevitable – the result of blameless economic forces – and possible negative effects seen as unintended and unavoidable. However, globalisation is driven by the decisions of policy-makers, and the choice of the rules and their enforcement is the result of the pursuit of national interests by government officials at international trade negotiations. As Oxfam argues, the unequal power relations at international trade negotiations has produced a system where the rules 'are rigged' in favour of the rich countries. Although, it is difficult to hold

the governments to account under human rights obligations for the impacts that their policies and positions have on people living in another country, it has been argued that all governments have a minimum duty to refrain from harming people living in other countries.⁴⁵ If countries use trade policy in ways that create poverty amongst people living in poorer countries, then this may constitute a violation by rich countries of their **duty to respect** the human rights of people living in other countries who are affected by their policies and decisions. The emerging concept of 'extra-territorial obligations' aims to hold states accountable for the impact of their policy choices on the citizens of other countries. Nonetheless, national governments still have a primary duty to realise human rights, but this could imply in the cases above that the governments of the African countries would have a duty to refrain from signing up to trade agreements that would negatively affect human rights of their citizens and might limit the capacity of governments to implement policies and programmes to meet their **duty to fulfil** the realization of a broad range of rights.

Tools and Resources on Poverty and Human Rights

[World Bank data on Poverty and Inequality](#)

Here you can read about measures for income poverty, based on national and international poverty lines, as well as measures for inequality and broader measures of poverty. Here you can also find links to statistical databases on poverty, health, education, gender, MDGs and other social indicators.

- [World Development Indicators](#)
- [Measuring Poverty](#) using income-based measures.

[UNDP data on Human Development](#)

Here you can access statistical data from the Human Development Report (HDR) and resources to help you better understand this data. You will also find information about the human development index (HDI) and other indices, links to other background materials, data resources and on-going debates and discussions on human development statistics.

- [Human Development statistics](#)
- [The Human Development Index](#)
- [The Human Poverty Index](#)

[UNDP Human Development Report 2000: Human Rights and Human Development](#)

The Human Development Report 2000 looks at human rights as an intrinsic part of development—and at development as a means to realizing human rights. It shows how human rights bring principles of accountability and social justice to the process of human development.

[Compendium of best practices on Poverty Measurement](#) by the International Expert Group on Poverty Statistics

The Compendium covers seven approaches based on collected experiences: absolute poverty line, access to basic services and basic capital possession, relative poverty, subjective poverty, and social exclusion, social deprivation, empowerment, and other social and political dimensions associated to poverty.

[OHCHR Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies](#)

The objective of these principles is to provide UN policymakers and practitioners involved in the design and implementation of poverty reduction strategies (PRSs) with guidelines for the adoption of a human rights approach to poverty reduction strategies.

[OHCHR Human Rights and Poverty Reduction: A Conceptual Framework](#)

This sets out a conceptual framework for thinking about the relationship between poverty and human rights, from the perspective of the UN office of the High Commissioner for Human Rights.

[UNESCO project on human rights and poverty](#)

See the results and resources of a UNESCO project on human rights and poverty.

[Thesaurus of Economic, Social and Cultural Rights](#)

This thesaurus from the the Science and Human Rights Program of the American Association for the Advancement of Science (AAAS) provides an interactive online guide to the interactive [International Covenant on Economic, Social and Cultural Rights](#).

[Examples of human rights organizations working on poverty issues, include:](#)

- [Center for Economic and Social Rights](#)
- [Amnesty International](#)
- [Human Rights Watch](#)
- [Center on Housing Rights and Evictions](#)
- [International Federation of Human Rights](#)

[UNDP International Poverty Centre one page guides:](#)

This Centre provides one page guides on key issues related to poverty

[What is Poverty?](#)

[Ending world poverty: is the debate settled?](#)

[Defining pro-poor growth](#)

References:

- ¹ Mary Robinson, in [BBC NEWS, Thursday, 21 November, 2002](#).
- ² Chronic Poverty Research Centre, 2008, [The Chronic Poverty Report 2008/9](#)
- ³ Ibid.
- ⁴ See <http://daccessdds.un.org/doc/UNDOC/GEN/N06/487/55/PDF/N0648755.pdf?OpenElement>
- ⁵ See UN statement on Human Rights Day 2006 on [Human Rights and Poverty](#)
- ⁶ Leckie, Scott. 1998 'Another Step Towards Indivisibility: Identifying the Key Features of Violations of Economic, Social and Cultural Rights' *Human Rights Quarterly*, Vol 20:1, pp. 81-124
- ⁷ Chronic Poverty Research Centre, 2008 op cit.
- ⁸ OHCHR, 2004, [Human Rights and Poverty Reduction: A conceptual framework](#). See also Sakiko Fukuda-Parr, 2007. "[Human Rights and National Poverty Reduction Strategies: Conceptual framework for human rights analysis of poverty reduction strategies and reviews of Guatemala, Liberia and Nepal](#)," [Economic Rights Working Papers 2](#), University of Connecticut, Human Rights Institute.
- ⁹ See also Vizard, P. 2006 *Poverty and Human Rights: Sen's 'Capability Perspective' Explored*, Oxford: Oxford University Press.
- ¹⁰ <http://www.dfid.gov.uk/pubs/files/social-exclusion.pdf>
- ¹¹ E/CN.4/2005/49
- ¹² Townsend, P., 1996, *A Poor Future: Can we Counteract Growing Poverty in Britain and Across the World*, London: Lemos and Crane.
- ¹³ *Statement Adopted by the Committee on Economic, Social and Cultural Rights*, E/C.12/2001/10
- ¹⁴ OHCHR, 2004, op cit.
- ¹⁵ See for example Louise Arbour 2008 '[Using Human Rights to Reduce Poverty](#)' Development Outreach, World Bank.
- ¹⁶ See for example the discussions in the report of the UN Independent Expert on Extreme Poverty A/HRC/Sub.1/58/16.
- ¹⁷ Some inspiration for drawing out these distinctions came from Fernanda Doz Costa, 2006, 'Poverty And Human Rights: From Rethoric To Legal Obligations: A Critical Account Of Conceptual Frameworks' Unpublished ms.
- ¹⁸ Sakiko Fukuda-Parr, 2007. "[Human Rights and National Poverty Reduction Strategies: Conceptual framework for human rights analysis of poverty reduction strategies and reviews of Guatemala, Liberia and Nepal](#)," [Economic Rights Working Papers 2](#), University of Connecticut, Human Rights Institute.
- ¹⁹ Roth, Kenneth, 2004, *Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization* *Human Rights Quarterly*, Vol 26:1, pp. 63-73.
- ²⁰ Braveman, Paula and Gruskin, Sofia, 2003, 'Poverty, equity, human rights and health' *Bull World Health Organ* vol. 81, no. 7, , pp. 539-545.
- ²¹ For a clear explanation, see Sepulveda, Magdalena, 2003, The nature of the obligations under the international covenant on economic, social and cultural rights, *School of human rights research series*, vol. 18, xv, Antwerpen : Intersentia. For the Committee's detailed General Comments on each rights, see <http://www2.ohchr.org/english/bodies/cescr/comments.htm>
- ²² See <http://www1.umn.edu/humanrts/instree/Maastrichtguidelines.html>
- ²³ General Comment No. 3 (Fifth session, 1990) *The nature of states parties obligations (art 2(1) of the Covenant)* UN doc. E/1991/23: The Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party... In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations" (para. 10)
- ²⁴ See for example, Mary Robinson, 1998, [The Business Case for Human Rights](#).
- ²⁵ Alston, Philip (ed), 2005, *Non-State Actors and Human Rights*, Oxford University Press. See also Clapham, A., 2005, *Human Rights Obligations of Non-State Actors*, Oxford and New York: Oxford, University Press.
- ²⁶ See for example See A. Clapham and S. Jerbi, "[Categories of corporate complicity in human rights abuses](#)", New York, March 200
- ²⁷ E/CN.4/Sub.2/2003/12/Rev.2
- ²⁸ see E/CN.4/2004/10, para. 14-34
- ²⁹ See e.g. Darrow, M., 2003, *Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law*, Oxford and Portland: Hart Pub.
- ³⁰ See <http://www.business-humanrights.org/microsites/Portal/Home>
- ³¹ Pogge, Thomas, 2002, *World Poverty And Human Rights: Cosmopolitan Responsibilities And Reforms*, Cambridge, Polity Press.
- ³² See World Bank: <http://siteresources.worldbank.org/PGLP/Resources/PMch8.pdf>
- ³³ <http://www.dams.org/docs/kbase/contrib/soc213.pdf>
- ³⁴ General Comment No. 7 (1997) on the right to adequate housing (Art 11.1).
- ³⁵ http://ran.org/campaigns/rainforest_agribusiness/resources/fact_sheets/agribusiness_impacts_on_indigenous_communities/
- ³⁶ See this [Legal Petition by CESR and SERAC and the Judgement of the African Commission on Human and People's Rights](#)
- ³⁷ [Legal Petition by CESR and SERAC and the Judgement of the African Commission on Human and People's Rights](#), See Judgement, para 66.
- ³⁸ CESR forthcoming 'Equatorial Guinea' Report
- ³⁹ CESR forthcoming, 'Fiscal policies and human rights in Guatemala'.
- ⁴⁰ Kenya's National Commission on Human Right and Transparency International 2006's report '*Living Large, Counting the Cost of Official Extravagance in Kenya*'
- ⁴¹ Boyce, cited in Johnson http://www.odi.org.uk/rights/Publications/WP145_RightsClaimsCapture.pdf
- ⁴² See Johnson, C. and Start D., 2001, 'Claims and Capture: Understanding the Politics of Pro-Poor Policy' *Overseas Development Institute, Working Paper 145*, www.odi.org.uk/rights/Publications/WP145_RightsClaimsCapture.pdf.
- ⁴³ Macdonald, Martha, 1995, [Economic restructuring and gender in Canada: Feminist policy initiatives](#) *World Development, Volume 23, Issue 11, Pages 2005-2017*
- ⁴⁴ See Oxfam http://www.oxfam.org.uk/what_we_do/issues/trade/downloads/bp30_cotton.pdf
- ⁴⁵ See e.g Pogge op cit.

All URLs last accessed on 1 December 2008.