

*VENRO Project »Prospects for 2015 –  
Combating Poverty Requires Involvement«*



## How can the poor gain their rights?

Poverty Reduction and Human Rights

2015  
in Dialogue

7

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### PHOTOS

A mother with her children at the Zam Zam camp in the Dafur region of Sudan/UN Photo NICA #14562 by Eskinder Debebe (p. 9); Two Kosovar refugee boys carry their family's bread rations, in Kukes, Albania/UN Photo #202477C (p. 19); Women planting rice seedlings near Kampot, Cambodia/UN Photo #UN159469 by P. Sudhakaran (p. 20); Mastering the art of writing in Karachi, Pakistan/UN Photo# 152390C (p. 22); A Cakchiquel family in the hamlet of Patutzun, Guatemala/UN Photo # 187129C (p. 24); A boy in India carries bricks to earn a living/UN Photo# 137529C (p. 25); Mourners at a funeral ceremony for those killed by South African police on 1985's International Day for the Elimination of Racial Discrimination, at Langa Township in Uitenhage/UN Photo# 155586 (p. 28); Workers pick up the food supplies air-dropped by the World Food Programme airplane/UN/DPI Photo #187720C (p. 30).

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## List of abbreviations

AIDS	Acquired Immune Deficiency Syndrome	IMF	International Monetary Fund
AU	African Union	ILO	International Labour Organization
BMZ	Federal Ministry for Economic Cooperation and Development	LDCs	Least Developed Countries
GNP	Gross National Product	LICs	Low Income Countries
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	MDG	Millennium Development Goal
CRC	Convention on the Rights of the Child	NePAD	New Partnership for Africa's Development
CSR	Corporate Social Responsibility	NGOs	Non-Governmental Organisations
DAC	Development Assistance Committee	ODA	Official Development Assistance
DFID	Department for International Development, United Kingdom	ODI	Overseas Development Institute
DGVN	United Nations Association of Germany)	OECD	Organization for Economic Co-operation and Development
DIE	Deutsches Institut für Entwicklungspolitik (German Development Institute)	OHCHR	Office of the High Commissioner for Human Rights
EED	Evangelischer Entwicklungsdienst. Church Development Service – An Association of the Protestant Churches in Germany	PAAAs	Priority Areas for Action
EU	European Union	PPP	Public Private Partnership
DC	development co-operation,	PRSP	Poverty Reduction Strategy Paper
FAO	Food and Agricultural Organization of the UN	TNCs	Transnational Corporations
FDI	Foreign Direct Investment	TRIPS	trade-related aspects of intellectual property rights
FIAN	FoodFirst Information & Action Network	UN	United Nations
GATS	General Agreement on Trade in Services	UNDP	United Nations Development Programme
GFATM	Global Fund To Fight AIDS, Tuberculosis and Malaria	UNEP	United Nations Environment Programme
GKKE	Joint Conference Church and Development	UNESCO	United Nations Educational, Scientific and Cultural Organization
GTZ	Gesellschaft für technische Zusammenarbeit (German Technical Cooperation)	UNHCHR	United Nations High Commissioner for Human Rights
HDR	Human Development Report	UNICEF	United Nations Children's Fund
HIPC	Heavily Indebted Poor Countries	UNRISD	United Nations Research Institute for Social Development
HIV	Human Immunodeficiency Virus	VENRO	Association of German Development NGOs
HURIST	Human Rights Strengthening	WB	World Bank
IFIs	International Finance Institutions	ESC rights	Economic, Social and Cultural Human Rights
		WTO	World Trade Organization

## Summary

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Poverty doesn't just mean having a low income. It also means being affected by discrimination, lack of participatory opportunities, insufficient access to resources and disregard for human dignity and human rights. Poverty and the violation of human rights are mutually reinforcing and interdependent. If people are forced to live in extreme poverty, this in itself already constitutes a violation of human rights. Thus, poverty reduction represents a basic human rights demand. A consistent human rights-based approach to development co-operation (DC), which has increasingly been discussed since the beginning of the nineties, addresses this link and calls for policies to be redirected towards the poor, whose human rights are under a particular threat. Such a human rights-based approach results in a shift in perspective, for it stresses the state's responsibility to realise human rights and simultaneously advocates the legitimate claim to these rights on the part of those concerned. In this way, DC is no longer determined by political and economic interests and considerations but has to focus in particular on the needs and rights of disadvantaged people and groups.

This paper examines the relevance of individual human rights to poverty reduction and, to this end, takes a closer look both at the role of political rights (with the right to participation being attributed a central role) and at the significance of economic, social and cultural human rights (ESC rights). Regarding the latter, special consideration has been given to the human rights to food, water, education and health – also because these are explicitly referred to in the Millennium Development Goals (MDGs). In addition, the issue is examined how the rights of vulnerable groups, especially the rights of indigenous peoples, women and children, can be strengthened. A further chapter deals with the link between globalisation and human rights. Although the globalisation process bears

a positive potential to realise human rights, it is hard to ignore its current negative effects in terms of aggravating poverty and inequality. Another issue that is of importance in this context is the changing role of the state as a consequence of globalisation. Realising human rights is closely linked to the provision of public goods and social services. The expansion of privatisation (as one of the basic traits of economic globalisation) tends to weaken the state's responsibility for human rights and to cause a responsibility vacuum since the private sector is both unable and unwilling to assume this responsibility.

The paper on hand, which is a collaborative effort of VENRO (Project »Perspektive 2015«) and FORUM MENSCHENRECHTE (above all the forum's working group on development and human rights) and has been drafted by Dr. Brigitte Hamm (INEF), is concluded by a series of recommendations for a human rights-based approach to German poverty reduction policy and for non-governmental organisation (NGO) practice. The German Federal Government is above all called upon to review its policies with regard to recognising poverty reduction as an international and national obligation resulting from states joining human rights conventions and from customary international law. This implies that DC funds be comprehensively and consistently directed to particularly disadvantaged regions and sections of the population. The key tasks for NGOs in the North are to step up their support of the activities Southern NGOs campaigning for human rights and the attainment of the MDGs to get involved in and to consistently monitor the implementation of MDGs and human rights by their own governments and constantly call on their governments to do so, also via intensive public relations activities and international campaigns.

*Klaus Wardenbach, VENRO*

# Introduction

On the 4th April 2001, the German Federal Cabinet passed the Federal Government's Program of Action 2015 to combat extreme poverty world-wide. Here, poverty reduction is seen as an integral element of a structural policy at the global level. The starting-point for this programme was a pledge to halve the share of the extreme poor by 2015, one of the commitments made by the community of nations at the United Nations Millennium Summit in September 2000. Setting out from the Final Declaration of this conference, the Millennium Declaration, and the goals laid down in it, UN Secretary-general Kofi Annan gave special emphasis to eight measurable development goals with 18 sub-goals and 48 indicators in his »Road Map for the Implementation of the Millennium Declaration«, which he presented in September 2001. Progress made in implementing these Millennium Development Goals (MDGs) is to be debated at the »Millennium plus 5« UN Summit in September 2005. However, there are fears that Goal 3, eliminating gender disparity in primary and secondary education by 2005, will already be missed.

The MDGs are viewed rather controversially among non-governmental organisations (NGOs), many of whom regard them as too technical, too reductionist and too charitable (Rodenberg 2004). In spite of these reservations, NGOs want to make use of the MDGs, and in an international MDG campaign, they are urging that the MDGs be pursued in a manner that is consistent and can be checked, especially in poverty reduction.

Neither in the MDGs nor in the German Federal Government's Program of Action 2015 do human rights form the starting-point. Rather, they merely represent one of several goals. Setting out from the MDGs, the Federal Government's Program of Action not only describes the world-wide problem of extreme poverty, but it also establishes a link between globalisation and a further increase in poverty and exclusion. It is explained that poverty does not merely mean income poverty but covers more aspects, touching on living standards as a whole. In its Program of Action 2015, the Federal Government characterises poverty reduction as an overarching task demanding contributions in all dimensions of sustainable development (social justice, environmental compatibility, economic performance) as well as measures of the political dimension to promote democracy, the rule of law and

peaceful conflict resolution (cf. BMZ 2001: 2). Successful poverty reduction requires Global Governance. Accordingly, the Programme of Action describes poverty reduction as a multi-level and multi-actor policy with fields of action at international, bilateral and German level and with the involvement of state and non-state actors at these different levels of action. The contents of the Federal Government's Programme of Action are divided into ten Priority Areas for Action (PAAs).

Just one year after the publication of the Program of Action, the BMZ submitted the first interim report on the status of implementing the Program of Action in June 2002, and the second one in March 2004 (BMZ 2002; BMZ 2004b). In the first interim report, the measures are listed under the ten PAAs and broken down respectively according to those areas for action in which the Federal Government seeks to become involved in implementing the Program of Action. The second interim report is structured according to the levels of action and presents implementation steps in important areas for action.

In principle, such interim reports are laudable, for in issuing them, the Federal Government creates transparency and exposes its poverty reduction policy to public scrutiny. All in all, however, both interim summaries tend to be rather disappointing, for they focus on subsuming ongoing measures to the respective PAAs without giving concrete indications of progress made or of obstacles encountered. There is no discernible focus, a shortcoming that is also criticised by the »Gemeinsame Konferenz Kirche und Entwicklung« (GKKE – Joint Conference Church and Development) in its various reports (GKKE 2002, 2003, 2004). Thus a checkable basis is lacking that would enable an evaluation and measuring of the activities, and no reference is made to the parameters and core indicators set in the MDGs for the halving of extreme poverty by 2015. Thus the interim reports do not provide a basis to check the measures introduced in 2001. And this objection cannot be invalidated by the BMZ's stressing the procedural nature of the programme that necessitates a continuous adjustment of planned measures.

The lack of clearly operationalised goals appears to be particularly problematic in view of econometric scenarios (Hanmer/Healey/Naschold 2000) indicating what measures would have to be taken in what circumstances to attain with a certain statistical probability a halving of

## Box 1: Millennium Development Goals 2015

**Goal 1: Eradicate extreme poverty and hunger**

*Target 1* Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day

*Target 2* Halve, between 1990 and 2015, the proportion of people who suffer from hunger

**Goal 2: Achieve universal primary education**

*Target 3* Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling

**Goal 3: Promote gender equality and empower women**

*Target 4* Eliminate gender disparity in primary and secondary education, preferably by 2005, and to all levels of education no later than 2015

**Goal 4: Reduce child mortality**

*Target 5* Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate

**Goal 5: Improve maternal health**

*Target 6* Reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio

**Goal 6: Combat HIV/AIDS, malaria and other diseases**

*Target 7* Have halted by 2015 and begun to reverse the spread of HIV/AIDS

*Target 8* Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases

**Goal 7: Ensure environmental sustainability**

*Target 9* Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources

*Target 10* Halve, by 2015, the proportion of people without sustainable access to safe drinking water and sanitation

*Target 11* By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers

**Goal 8: Develop a Global Partnership for Development**

*Target 12* Develop further an open, rule-based, predictable, non-discriminatory trading and financial system [Includes a commitment to good governance, development, and poverty reduction – both nationally and internationally]

*Target 13* Address the Special Needs of the Least Developed Countries [Includes: tariff and quota free access for LDC exports; enhanced programme of debt relief for HIPC and cancellation of official bilateral debt; and more generous ODA for countries committed to poverty reduction]

*Target 14* Address the Special Needs of landlocked countries and small island developing States (through the Programme of Action for the Sustainable Development of Small Island Developing States and the outcome of the 22nd special session of the General Assembly)

*Target 15* Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term

*Target 16* In co-operation with developing countries, develop and implement strategies for decent and productive work for youth

*Target 17* In co-operation with pharmaceutical companies, provide access to affordable, essential drugs in developing countries

*Target 18* In co-operation with the private sector, make available the benefits of new technologies, especially information and communications



extreme poverty by 2015 in the various regions of the world and under different conditions.

According to these calculations, far more emphasis would have to be given to the pursuit of a pro-poor-growth policy, benefiting especially the poor and disadvantaged sections of the population. Elements of a pro-poor policy comprise measures that enhance the potential of the poor, including participatory and access rights. In addition to income disparities, low productivity in the agricultural sector and continuing gender inequality have

a negative impact on the global goal of halving extreme poverty by 2015.

UNDP stresses the mutual dependence of the various MDGs and assumes that many of them can only be attained in combination (Vandermoortele 2004: 3). In addition to the need to focus the contents, regional orientation is also an important issue. For example, according to calculations made by the Overseas Development Institute (Hanmer/Healey/Naschold 2000), the Sub-Saharan region ought to be given particular attention in national and international poverty reduction because this region offers the least prospect of halving extreme poverty by 2015. This is also stressed in a study of the UN Millennium Project, which states that in this region, both the share and the absolute number of people living in absolute poverty has continued to rise (Sachs 2004: 6). Both the IMF and the World Bank acknowledge the special problems this region is encountering in a statement on the implementation of the MDGs by the two central international finance institutions (IFIs) (World Bank 2004). The same applies to the G8 States with their G8 Africa Action Plan, for which the German Federal Government has presented its own implementation plan. The latter particularly stresses the potential and the self-responsibility of the African states, which is also expressed by the African Union (AU) itself in its initiative for a New Partnership for Africa's Development (NePAD) vis-à-vis the G8 states (BMZ 2004c).

From a human rights angle, world-wide poverty reduction is an important requirement for the realisation of human rights. A human rights-based approach starting out from human rights and simultaneously setting their realisation as a goal is being discussed for development co-operation (DC), and it could act as a basis for poverty reduction as well. This view is also held by various UN organisations. For example, UNDP demands that a human rights-based approach be adopted to all of the UN's activities so that the MDGs can be attained (HURIST 2003).

# 1 A human rights-based approach to poverty reduction

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World-wide, more than a billion people have to live on less than 1 US\$ a day and are thus regarded as living in extreme poverty. Around 800 million people are suffering from hunger and malnutrition.

In determining poverty, it is important to focus on the conditions of living imposed on poor people which contribute to marginalising them in society. A comprehensive concept of poverty has to be applied here (BMZ 2001: 2) that comprises:

- low income,
- poor opportunities,
- a lack of participatory opportunities in the political, societal and economic sector,
- particular exposure to risks,
- disregard for human dignity and human rights,
- absence of access to resources.

## 1.1 How does poverty relate to the violation of human rights?

A comprehensive concept of poverty, such as the one applied by the BMZ, points to the close link between poverty and human rights, especially since the fundamental rights of poor people to equality and non-discrimination are violated. Moreover, they are often denied access to resources (income, work, land, credits, education) which represent an essential prerequisite for people to live their lives in dignity. The close link between poverty and human rights is also stressed in the UNDP's Human Development Report (HDR) of 2000, which is devoted to the topic of human rights and human development. Here, poverty is described as »a major obstacle to attaining a decent standard of living and realizing human rights« (HDR 2000: 43). In a study the Office of the High Commissioner for Human Rights (OHCHR) refers to Armatya Sen's approach, who regards poverty as the denial of a comprehensive formation and development of personal abilities. The latter can only emerge if basic freedoms such as freedom from hunger, disease and illiteracy, but also the freedom of speech and opinion and the freedom to criticise, are guaranteed. From the angle of UNHCHR, the concept of personal abilities and basic

freedoms forms the link between poverty reduction and human rights (UNHCHR 2004: 7pp.).

Thus poverty and the violation of human rights are interdependent and mutually reinforcing. Cause and effect cannot be clearly distinguished from one another, for poverty can at once be the cause and the effect of violations of human rights. From a human rights angle, the extensive deprivation of opportunities, as well as the denial of participatory and access rights, that poor people are frequently faced with represents a violation of human rights. If people are forced to live in extreme poverty, this in itself already constitutes a violation of human rights. Thus poverty reduction represents a fundamental human rights demand (cf. Misereor 2004).

## 1.2 A human rights-based approach to development co-operation

Such a notion is in accord with a human rights-based approach to DC, a notion that has increasingly been discussed since the early 1990s. Such an approach is of particular relevance to poverty reduction, also because it requires a consistent policy reorientation towards the poor, whose human rights are under particular threat. This also demands an appropriate use of DC funds.

A human rights-based approach moves the perspective and would even imply a paradigm shift in DC if a state obligation to development activities and development co-operation were to be recognised at the international level. Emphasising state obligation results from human rights conventions and simultaneously represents a legal entitlement of those affected by the denial of human rights. Thus DC is then no longer determined by political and economic interests and considerations but has to be oriented especially towards the needs and rights of vulnerable people and groups. It is the states' requirement to recognise their obligations to (international) development efforts that is lacking in the BMZ's Development policy action plan on human rights 2004–2007, which it presented in July 2004 (BMZ 2004a). So while the BMZ intends to promote human rights, it has not yet addressed the issue of basing development policy on an obligation to human rights.

In addition to the state obligations, a human rights-based approach to development activities and development co-operation comprises further elements:

*Box 2: Dimensions of a human rights-based approach to development co-operation*

- the starting-point is the human rights conventions, which are of binding character in accordance with international law;
- observance of the principle of non-discrimination and a special focus on vulnerable groups such as women, children and minorities;
- observance of the principles of participation and empowerment;
- the rule of law, efficiency and participation as indication of good governance;
- a focus on political, economic, social and cultural core rights.

Source: Hamm (2003)

This list already highlights the close correspondence between the pursuit of the MDGs and poverty reduction and human rights. In order to develop the relevance of a human rights-based approach to DC for poverty reduction as well, a brief definition of human rights, an identification of the role the states play in protecting, promoting and fulfilling human rights and the constitutive elements of a human rights-based approach to development are to be outlined.

The elements of a human rights-based approach are also implicitly contained in the ongoing activities against poverty, such as the World Bank's Poverty Reduction Strategy Papers (PRSPs) and other national programmes to combat extreme poverty.

### 1.3 Human rights

Different notions and cultural specifications of human rights still exist. However, in spite of these persistent differences, one can assume that today's dominant understanding of human rights is enshrined in the human rights documents of the United Nations. They include in particular the *Universal Declaration of Human Rights* of 1948, the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*. The latter were adopted by the UN General Assembly in 1966 and entered into force in 1976. Together, these three documents form the so-called Bill of Human Rights. They present a comprehensive concept of human rights that has been specified and extended in further declarations, covenants and conventions and lays claim to universal validity. Among the

follow-up documents, it is above all the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC) that represent further important international agreements of additional importance to a human rights-based approach to poverty reduction. The Women's Rights Convention entered into force in 1981, followed by the Children's Rights Convention in 1990. In joining the United Nations, all states recognise an international responsibility for the protection of human rights. In addition, each state has ratified at least one treaty on human rights, from which an international law commitment to respecting, protecting and fulfilling human rights follows.

All international declarations and treaties base human rights on the dignity of every human being. A decent life sets out from two fundamental prerequisites, i.e. freedom and equality. In principle, this is already reflected in the Universal Declaration of Human Rights, which above all contains political rights while also referring to economic, social and cultural rights. In accordance with this view, human rights can be described as basic rights to protection and legal entitlements of an individual that he or she disposes of vis-à-vis the state he or she lives in. Basic rights to protection include political rights and civil liberties protecting individuals from state arbitrariness (e.g. through torture) and from infringements (e.g. by disregard for the private sphere). Entitlement rights relate to the conditions people require to live a decent life. Such conditions comprise, in particular, economic rights such as the right to work and social human rights, including education, health and food, and, finally, cultural rights, which are in particular jeopardy for minorities. If a comprehensive concept of poverty like the one described above is applied, one has to note that people are then affected by poverty if their rights have been violated in a comprehensive manner. This relates both to political rights and civil liberties and to the attainment of economic, social and cultural rights. These rights are mutually reinforcing and interdependent. »They can create synergies that contribute to poor people's securing their rights, enhancing their capabilities and escaping poverty. Because of these complementarities, the struggle to achieve economic and social rights should not be separated from the struggle to achieve civil and political rights. And the two need to be pursued simultaneously.« (HDR 2000: 91)

#### 1.3.1 Economic, social and cultural rights

Different notions prevail regarding the legal character of human rights that could prove an obstacle to a human rights-based approach. For example, the political rights and civil liberties, i.e. those human rights that are laid down in the Covenant on Civil and Political Rights and

belong to the first dimension of human rights, are regarded as individually enforceable.

The economic, social and cultural rights, the so-called ESC rights, which are enshrined in the Covenant on Economic, Social and Cultural Rights, represent a different state of affairs. They are the human rights of the second dimension, and their legal character is still controversial, for they were treated as programmatic goals rather than as individually enforceable rights for a long time.<sup>1</sup> This is also the reason why no separate monitoring body was originally provided for this treaty. Only in 1987 was a separate committee set up to monitor the Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights. It has since made efforts to establish the ESC rights as capable of being adjudicated.

One objective problem in asserting the enforceability of the ESC rights is that the Covenant on Economic, Social and Cultural Rights defines these rights as to be achieved progressively, a notion that sceptics claim restricts their immediate enforceability. Moreover, if the Covenant is violated, it first of all has to be ascertained whether a state has failed through no fault of its own, for instance owing to insufficient capacities, or whether a human right has been violated. The Committee on Economic, Social and Cultural Rights has addressed this issue in detail in its General Comments. Two international expert conferences in Limburg in 1986 and in Maastricht in 1997 were also devoted to this topic. There, the phrase »achieve progressively« contained in the treaty was interpreted as a state party's obligation having to devise a policy to realise the ESC rights according to its level of development. To this end, together with the government of a country party to the contract, the Committee sets benchmarks that are to be checked and discussed on a regular basis. For example, a long-term policy of this kind contains the development of health and education systems. Long-term measures may be carried out via projects and programmes (e.g. in co-operation with donor countries), through land reform, laws and decentralisation.

In addition to doubts regarding the individual enforceability of the ESC rights owing to their structural character, there are political reservations as well. Many member states of the Covenant on Economic, Social and Cultural Rights fear that recognising the justiciability of the ESC rights would entail immediate costs they wish to avoid. However, costs also arise from guaranteeing the political rights, for example those of establishing and maintaining a working judiciary system. The duties a state performs for the rights of the Covenant on Economic, Social and Cultural Rights are the same as those arising

from the Covenant on Civil and Political Rights. The cost argument appears to be more of a pretext to call into question the state procedure to ensure the ESC rights.

One important step towards strengthening the ESC rights is the introduction of an individual complaint for the Covenant on Economic, Social and Cultural Rights, for which the German Federal Government intends to step up its campaign according to Priority Area for Action (PAA) 7 in its Program of Action 2015. A procedure of this kind already exists for other important international human rights conventions. They include the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), which entered into force in 1969, the Covenant on Civil and Political Rights, the International Convention against Torture, which entered into force in 1987, and the Women's Rights Convention. An individual complaint is facultative for the states. It enables individuals to file objections to the committee responsible for the respective treaty after having taken all possible legal measures at national level. Generally, a complaint option of this kind enhances an individual's status in international law. At the same time, the treatment of specific cases results in the respective committees putting violations of human rights in more precise terms, which boosts the capacity of human rights to be adjudicated. NGOs have been involved in lobbying activities in favour of establishing such an individual complaints procedure for the Covenant on Economic, Social and Cultural Rights, and some of these activities have been underway since the 2nd World Conference on Human Rights in Vienna in 1993. Although important progress has been made, the draft of a facultative protocol for the Covenant on Economic, Social and Cultural Rights is still being deliberated. A procedure of this kind would enhance the status of the ESC rights and support their being put on a par with the political rights and civil liberties. Consistent efforts on the part of the German Federal Government to have a facultative protocol established for the Covenant on Economic, Social and Cultural Rights – similar to the positive stance the governments of Finland and Portugal have adopted – would also demonstrate a consistent poverty reduction policy, since an individual complaints procedure would enhance the rights of those concerned.

### 1.3.2 States and the protection of human rights

According to the prevailing human rights understanding, the individual is the subject of the human rights vis-à-vis the state he or she lives in merely because of his or her existence as a human being. The state is the chief body holding responsibility for the protection of human rights. It, or the respective government deputising for it, is obliged to ensuring that conditions are in place that human rights can be realised in. The commitment of states to the protection of human rights comprises three levels,

1 Human rights are divided into three groups by applying the term dimension and also generation. The so-called solidarity rights form the third group, to which, in particular, the right to development belongs.

with a human rights-based approach to poverty reduction relating to all levels of duties, particularly to the states' duty to ensure or fulfil the human rights (see Box 3):

*Box 3: The levels of duties states have regarding human rights*

- States have to respect human rights,
- States have to protect human rights from being violated by third parties, e.g. by private sector enterprises, and
- States have to take short and long-term measures to fulfil human rights.<sup>2</sup>

States are above all obliged to protecting the rights of people in their territory, but in addition, states have committed themselves internationally. An international commitment of states is already stressed in the Universal Declaration of Human Rights in Article 28, which stipulates every person's right to a social and international order in which the rights and liberties laid down in the declaration can be fully developed.

This initially normative commitment has been transferred to legally binding obligations for state parties of international human rights treaties. For instance, Article 4 of the Children's Rights Convention (CRC) and Article 2 (1) of the Covenant on Economic, Social and Cultural Rights stress the international commitment of the states party to the agreements<sup>3</sup>:

*Box 4: International obligations in the Convention on the Rights of the Child<sup>4</sup>*

States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation. (Art. 4)

- 2 Regarding the obligation to fulfil human rights, the Committee on Economic, Social and Cultural Rights distinguishes between the duties to facilitate and to provide. This means that the obligation to realise human rights refers on the one hand to ensuring that framework conditions are in place and on the other that people in need are provided for.
- 3 With its 191 member states, the Children's Rights Convention is the most frequently ratified human rights convention and therefore represents an almost globally valid agreement. By 09.06.2004, the Covenant on Economic, Social and Cultural Rights had been entered by 149 states. The Federal Republic of Germany is party to both agreements.
- 4 In Articles 24 (4) and 28 (3), the international obligations of the states parties to the treaty to ensuring the rights of children to health and education is once again repeated and put in precise terms.

*Box 5: International obligations in the Covenant on Economic, Social and Cultural Rights*

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures. (Art. 2, 1)

Thus international co-operation aimed at realising human rights is an obligation on the part of the states. Setting out from the premise that poverty represents a comprehensive denial and violation of human rights, poverty alleviation and poverty reduction represent an international commitment.

The obligatory nature of a human rights-based approach has universal validity, which can be demonstrated in various ways. For example, certain core rights are laid down in customary international law (e.g. the right to life). Moreover, with their accession to human rights conventions, states explicitly recognise their national and international commitment to respecting, protecting and fulfilling human rights.

A human rights-based approach to poverty reduction above all means the states' recognising their obligation by international law to promote international development and, accordingly, national processes ensuring that human rights are fulfilled and serving poverty reduction. Related to the people concerned, such a rights-based approach can also be briefly outlined as a shift from people's needs to people's rights. In addition, a human rights-based approach stresses the self-responsibility of the governments of recipient countries of development aid since they bear the chief responsibility for respecting, protecting and fulfilling human rights in their territories. This approach corresponds to the notion of »developing countries in the driver's seat«, which was already formulated by the OECD in its catalogue of targets, »Shaping the 21st Century«, in 1996. Nevertheless, stressing the responsibility of governments of receiving countries does not lessen the responsibility that the governments of the donor countries and the international development and finance institutions bear for the consequences of development strategies some of which they have imposed on developing countries.

In fleshing out PRSPs, UNHCHR (2004: 29) distinguishes between the obligations of industrialised countries and those of the developing countries. For the industrialised countries, UNHCHR stresses as a predominant issue that human rights duties to international co-operation and support, as also formulated in the MDGs, have to be recognised. In addition to a coherent and consistent application of these commitments, the

study points to the need to provide 0.7 % of GNP for ODA. Furthermore, UNHCHR wishes to see that states express their responsibility for poverty reduction in, for example, the allocation policy of export credit agencies and make arrangements that enterprises based in industrialised countries respect human rights standards in their overseas operations. So far, the governments of industrialised countries have failed to actively recognise such so-called extraterritorial obligations. Both NGOs and the committees of the UN human rights system are campaigning for a fundamental change to this attitude. For instance, FIAN, »Brot für die Welt« and »Evangelischer Entwicklungsdienst« (EED) are currently running a joint project aimed at Germany's more clearly assuming its extraterritorial obligations.<sup>5</sup>

Regarding the developing countries, UNHCHR (2004: 29) stresses in agreement with the World Bank that »[p]oor people and poor countries should have a greater voice in international forums, to ensure that international priorities, agreements and standards – such as in trade and intellectual property rights – reflect their needs and interests«. At the same time, the need is emphasised for the governments of these countries to be put in a position to regulate the private sector in their territory. Thus the UNHCHR proposals for this group of countries are based on the notion that their position vis-à-vis international and transnational actors is to be strengthened. However, these countries should also be made more aware of their human rights obligations, for partly, there is a lack of political will to establish human rights standards and conduct a consistent national poverty reduction policy.

#### 1.4 The Program of Action 2015 from a human rights perspective

Setting out from the criteria for a human rights-based approach, both the MDGs and the German Federal Government's Program of Action 2015 provide an important basis to combat violations of human rights and to assert human rights world-wide since combating poverty amounts to campaigning for human rights. Nevertheless, these initiatives are not explicitly pursuing a human rights-based approach, and in spite of what are all in all laudable efforts, this represents the major weakness from a human rights angle.

In addition to the states' acceding to the human rights conventions, a national and international commitment to poverty reduction gains further weight by relating to customary international law. In a similar manner to domestic customary law, this is unwritten law recognised by the legal subjects, i.e. the states, owing to a proven, common conviction of law and several years of practice. Moreover, »[...] the unopposed acceptance of custom by the other international law subjects [is required]« (Kimminich 1993: 239). Even if notions tend to differ on which human rights fall under customary international law in the first place, four core standards may be regarded as sanctioned by this law and therefore as a human rights minimum standard. They are

- the right to life,
- freedom from torture,
- freedom from slavery, and
- freedom from (racial) discrimination.

A life in extreme poverty represents an attack on the right to life, and from a human rights angle, it necessitates a joint effort on the part of the states and international organisations as laid down in principle in the MDGs.

However, what is lacking in particular in the Program of Action is the state's recognition of an obligation to conduct a national and international policy to respect, protect and fulfil human rights world-wide. Only PAA 7 explicitly refers to human rights by formulating »realizing human rights – respecting core labour standards« as a goal. Even though including the 1998 core labour standards of the (International Labour Organization, ILO) in the catalogue of human rights represents a substantial step forward in the understanding social and economic human rights, the orientation towards international treaties and a complaints mechanism for the Covenant on Economic, Social and Cultural Rights and on codes of conduct and social labels is too restrictive for poverty reduction.

The following table is an attempt to fit the ten PAAs of the Program of Action 2015, which in the main implicitly address the issue of human rights, into a human rights framework. Based on this, proposals can be developed on how poverty reduction is to be conducted in the various fields of action from a human rights angle. Here, a distinction is made between whether a certain human right is immediately addressed or if framework conditions are to be created, i.e. whether concrete government policy to realise these rights both immediately and in the long run is at issue (cf. Table 1).

5 [http://www.fian.de/fian/downloads/pdf/ran/international\\_obligations\\_kit\\_german.pdf](http://www.fian.de/fian/downloads/pdf/ran/international_obligations_kit_german.pdf), read on the 16.11.2004.

Table 1: The Program of Action 2015

Starting points	Contents	Assessment from a human rights angle	Requirement for action from a human rights angle
PAA 1	Raising economic dynamics and raising the active participation of the poor	Framework	Stressing state responsibility, but access as well; obligation to fulfil
PAA 2	Realising the right to food – conducting agricultural reform	Individual human right	Obligation to respect, protect and fulfil
PAA 3	Creating fair trade opportunities	Framework	Duty of the industrialised countries and international organisations
PAA 4	Reducing debt – financing development	Framework	Duty of the states of the donor and recipient countries
PAA 5	Ensuring basic social services – strengthening social security	Framework	Fulfilment of rights by the recipient and donor countries
PAA 6	Securing access to vital resources – supporting an intact environment	Framework Right by access	Commitment to fulfil by the state and non-state actors
PAA 7	Realising human rights – respecting core labour standards	Individual human rights	Duty of the state and non-state actors to fulfil
PAA 8	Promoting gender equality	Individual human rights Framework	Duty of the state and non-state actors to fulfil
PAA 9	Ensuring the participation of the poor – enhancing good governance	Individual right Framework	Respecting and fulfilling of individual rights by states, donors and international organisations
PAA 10	Peaceful resolution of conflicts – promoting human security and disarmament	Framework	Duty of the state

## 2 The relevance of particular human rights to poverty reduction

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Merely by virtue of their existence as human beings, all people are entitled to a life in dignity, and this is why all people have a right to human rights. Living in dignity requires freedom as well as corresponding socio-economic living conditions. At issue are the conditions enabling each and every individual to lead a life in self-determination. Thus human rights as a whole constitute an individual's right to self-determination. *Political rights and economic and social human rights* are equally important for people to live a decent, self-determined life. For this reason human rights are *indivisible* by their very nature and are *mutually dependent*. This indivisibility and interdependence of human rights is already laid down in the Universal Declaration of Human Rights of 1948, the most important human rights document after the Second World War.

Basing human rights on human dignity already indicates that living in forced poverty contradicts human rights. This is why realising human rights represents an important prerequisite for, and an integral element of poverty reduction. In the context of poverty reduction, a distinction also has to be made between rights that need to be realised and fulfilled immediately and those which the states, either on their own or in international cooperation, have to achieve progressively. Most often, poverty reduction refers to those human rights that are to be achieved progressively, i.e. in the main, poverty reduction is about structural changes.

Even though a selection always bears the danger of neglecting important sub-issues and aspects, this study cannot discuss all the rights of the extensive catalogue of human rights with regard to their relevance to poverty reduction. In the following, as particularly important contents for poverty reduction among the political rights are considered the right to participation and the significance of democracy as well as, among the economic and social rights, the right to food and the human rights to water, education and health.

Right to participation is of special importance to poverty reduction because poor people are to be put in a position to take their fate into their own hands. So participation is an integral element of any pro-poor growth policy. While the demand for democracy is not immediately a human right, what is at issue here is the political framework conditions for the states to assume their re-

sponsibility for human rights. The selection of social human rights hardly requires explaining, for poor people in particular are denied sufficient food and access to clean drinking water, education and health facilities – also in industrialised countries.

### 2.1 Political rights: non-discrimination and participation

A human rights-based approach to development stresses empowerment, participation and non-discrimination as central elements. Non-discrimination is a fundamental human right and is explicitly established in all important international human rights conventions either in the preamble of the respective convention or in special articles. In addition, this human right can lay claim to international validity since banning discrimination – initially, a ban on racial discrimination was at issue – is among those human rights that are regarded as customary international law. Thus, realising it is independent of whether a state has ratified a corresponding human rights convention. In particular, overcoming discrimination means overcoming the exclusion of groups that are under particular threat of poverty. Thus overcoming discrimination creates justice, as Misereor (2004) notes.

#### 2.1.1 Participation – a core element of poverty reduction

The demand for participation is closely linked to the human right to non-discrimination. It is of central importance both to poverty reduction – e.g. the World Bank's PRSPs – and to a human rights-based approach to DC. Human rights are an emancipatory concept. Setting out from the right to self-determination, participation is a fundamental issue and expresses that the people are the subjects of the development process and poverty reduction. People develop themselves rather than being developed, Misereor (2004) notes in this context. Box 6, below, illustrates the significance participation assumes in the human rights concept, with articles only being referred to here that go beyond the classical participatory rights,

Box 6: Participation in important human rights conventions

Convention/Article	Contents
<b>Covenant on Civil and Political Rights</b>	
Art. 25 a	The right to participate in shaping public affairs.
<b>Covenant on Economic, Social and Cultural Rights</b>	
Art. 15 a	The right to participate in cultural life.
Art. 15 b	The right to benefit from the achievements of scientific progress.
<b>Convention on the Elimination of All Forms of Discrimination against Women</b>	
Art. 7 b	The right to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government.
Art. 7 c	The right to participate in non-governmental organizations and associations concerned with the public and political life of the country.
Art. 8	The opportunity to represent the government at international level and participate in the work of international organisations.
Art. 14 (2 a)	The right to participate in the elaboration and implementation of development planning.
Art. 14 (2 f)	The right to participate in all community activities.
<b>Convention on the Rights of the Child</b>	
Art. 12 (1)	Giving the views of a child due weight.
Art. 31 (1)	The right to participate freely in cultural life and the arts.

i.e. freedom of opinion, right of assembly and the right to vote. In the articles listed, the focus is on the right to actively participate in shaping political and societal life, a right that every person is entitled to.

In 2004, UNHCHR published the study »A Human Rights Approach to Poverty Reduction Strategies«, which extensively covers the demands for participation and empowerment in poverty reduction. In a similar manner to e.g. the Human Rights Council of Australia (1996), which was one of the first NGOs to submit a comprehensive concept for a human rights-based approach to DC, UNHCHR also advocates a bottom-up approach to poverty reduction, i.e. the focus is not only on informing those concerned but also on ensuring that they are involved in projects or other measures right from the outset (see Box 7):

A bottom-up approach of this kind also requires fundamental rethinking in DC since projects that have already been planned need not even materialise. So far, however, the BMZ's interim reports have not discussed in what manner the demand for an active participation of the poor in the various poverty reduction measures is to be asserted.

In addition, institutional reforms in the receiving countries are required for a comprehensive participation of the poor as demanded by UNHCHR. For one thing, they include empowerment of the poor via education. Comprehensive human rights education is a prerequisite for those concerned to become aware of their rights in order to make use of them. But at the same time, they have to have sufficient political representation. Second,

Box 7: Levels of participation in poverty reduction policies

Choice in planning	Political decision-making	Implementation	Monitoring and measuring success
Before a policy is formulated, those affected can raise their concerns and, should the need arise, reject a measure.	The poor also bring their interests to bear in the distribution of resources.	The poor are involved in the implementation of a policy.	The poor participate and assess whether the government has fulfilled its obligations or promises.

corresponding institutional reforms need to be carried out via decentralisation and legislation. In the long run, this is to contribute to enabling poor people, who are frequently excluded from political processes, to determine the contents of development programmes themselves. Transparency and accountability of those politically responsible and of the development experts are important prerequisites for such a process.

## 18 | 2.2 Good governance

In its Development policy action plan on Human Rights 2004 – 2007, the BMZ notes that »enhancing good governance, i.e. democracy, rule of law, combating corruption and civil society participation, probably represents the most important precondition for poverty reduction and sustainable development« (BMZ 2004a: 3).

It can be assumed that governments in societies with democratic structures, with transparency and accountability, e.g. via parliament, take the struggle against poverty more seriously because there, double standards in politics and corruption are easier to expose than in authoritarian regimes. However, democratic structures, a prerequisite for fulfilling a state's human rights responsibilities, are lacking in many developing countries. This includes the obligation to report to the responsible committees as well as the creation of corresponding structures to respect, protect and fulfil human rights. So it is especially important to give attention to establishing democratic structures and institution building in the context of poverty reduction. One good example of support for institution building oriented towards human rights is an agreement between the UK's development ministry (DFID) and the Government of Rwanda of 1999. In this Memorandum of Understanding, Rwanda recognises its obligations resulting from its acceding to international human rights conventions and gives its consent to independent monitoring of its fulfilling these obligations. DFID, on its part, commits itself to supporting the country's development efforts with suitable programmes, e.g. in poverty reduction (Piron 2003: 19).

The principle of the rule of law is of particular significance to good governance, for an independent judiciary system that is accessible to all represents an essential precondition for sections of the population with a weak social status to get an opportunity to hold their own in conflicts with economically and politically more powerful parties. This is why establishing an effective judiciary system and conflict arbitration procedures is also an aspect of poverty reduction.

## 2.3 The right to food

World-wide, poor people are particularly hard-hit by violations of the right to food. More than 800 million people are suffering from chronic malnutrition, and millions of people are starving. These people's right to food is being violated. The right to food is an important element of poverty reduction world-wide, and the Program of Action 2015 is entirely justified to devote a special Priority Area for Action, PAA 2, to this fundamental human right.

The right to food has been laid down in Article 11 of the Covenant on Economic, Social and Cultural Rights, which formulates the right to an appropriate living standard. There, it states that:

*Box 8: Article 11 of the Covenant on Economic, Social and Cultural Rights*

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

The right to food is *active*, i.e. the focus is on the right to feed *oneself*. It is of a *subsidiary* nature in that it emphasises the provision of the conditions to feed oneself. Responsibility for the concrete realisation of this right is held by the individuals themselves in principle. It is *contextual*, i.e. further human rights are required for the realisation of the right to food. Here, reference above all has to be made to the rights to participation, non-discrimination and education.

### 2.3.1 Conditions for realising the right to food

General Comment 12 of the Committee on Economic, Social and Cultural Rights states the conditions enabling people to assume their right to food. It states that:

»The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.« So here, the right to food is above all defined as an access right. »Fundamentally,« this UN document states, »the roots of the problem of hunger and malnutrition are not lack of food but lack of access to available food, inter alia because of poverty, by large segments of the world's population.«

So the right to food is predominantly about physical and economic access to resources that are required for this



right to be realised. Here, a distinction has to be made between the different types of access that needs to be systematically considered in poverty reduction:

- In the rural regions, poor people frequently lack sufficient access to land that would enable them to provide for their own food supplies. This is why the demand for agricultural reform is on the agenda in many countries of the South.
- However, at the same time, poverty reduction in the agricultural sector has to consider the conditions of sustainable production by disseminating appropriate know-how to smallholders. They must dispose of access opportunities to technical and other resources. Thus integrated rural development programmes are key to realising the right to food in rural areas.
- In contrast, in the cities that more and more people are surging into from the rural areas, many people cannot assume their right to food because they lack access to work. In addition to the demand for training measures for the unemployed, an emphasis should also be put on creating jobs via pro-poor economic growth. Public Private Partnerships (PPPs), public sector spending and export credits granted by donor countries can be designed with a view to supporting a pro-poor-growth policy.
- In order to improve the conditions of poor people, demands for a general minimum income are also being made in some countries of the South, such as South Africa and India.
- Finally, people who are not self-sufficient need to be able to assume their right to food as well. They may be disabled or chronically sick people. Here, appropriate services as well as a minimum income need to be put in place. The duty of states to fulfil has to be realised here via supply systems.

In the framework of PAA 2, »Realizing the Right to Food and Implementing Agrarian Reform«, the German Fed-

eral Government's Program of Action 2015 stresses the significance of agricultural reform for poverty reduction. This notion corresponds to General Comment 12 of the Committee on Economic, Social and Cultural Rights, which stresses access to land being provided for landless people by agrarian reform. The need for agrarian reform is also referred to again and again in the country deliberations of the Committee on Economic, Social and Cultural Rights. For example, at the 31st Meeting of the Committee, a link was stressed between rural poverty, land ownership and the significance of agrarian reform in Yemen. However, the interim reports issued by the BMZ so far do not clarify what the concrete measures of the German Federal Government aimed at supporting agrarian reform are in detail.

In addition to sufficient *quantities*, the right to food also focuses on the *quality* of resources access is to be gained to. For example, the Committee on Economic, Social and Cultural Rights calls not only for sufficient access to land, but to fertile land, and not only to water, but to drinkable water.

### 2.3.2 Violations of the right to food and responsibilities

Setting out from the conditions for realising the right to food, it has to be noted that a government not meeting its responsibilities in the way it is able to represent a violation of human rights. Here, the *different conditions* in developing and industrialised countries have to be taken into account. The Committee on Economic, Social and Cultural Rights distinguishes between conditions to be attained progressively and those that are to be created *immediately*. The latter include the demand that nobody should starve. The Committee emphasises these requirements on the states as core commitments of the states in Section 6 (1) of General Comment 12. These commitments also apply in times of (natural) disasters.

Even if the respective state bears the main responsibility for respecting, protecting and fulfilling the right to food, the private sector, and here, in particular, the transnational corporations (TNCs), are also responsible since they inhibit the assumption of the right to food in different ways in their activities in the countries of the South. Such inhibitions include poor working conditions and low income as well as people being displaced from land the soil and natural resources of which the corporations wish to exploit. So establishing binding regulations governing the private sector's responsibilities is an important NGO demand.

Against the background of the very concrete provisions the Committee on Economic, Social and Cultural Rights makes regarding the realisation of the right to food, information contained in the BMZ's 2nd Interim Report of 2004 on the implementation of and prospects

for securing world food supplies and poverty reduction in rural regions appears to be too general. In particular, measurable implementation steps are lacking. In future, the German Federal Government ought to orient its engagement world-wide to assert the right to food on the General Comment on this human right and use it as a basis both for its bilateral and its multilateral efforts. Here, the country reports and the comments regarding them made by the Committee on Economic, Social and Cultural Rights could be of additional assistance.

The *Guidelines in support of the right to adequate food* are of particular importance to establishing the ESC Rights. They were adopted by the United Nations Food and Agricultural Organization (FAO) on the 23rd September 2004. While these Guidelines are voluntary, they do express a common understanding among the states regarding the content of this right. In the long run, applying the Guidelines can result in people affected by poverty and hunger claiming their right to food to an increasing degree.

## 2.4 The human right to water

According to information contained in the United Nations World Water Report of 2003, more than a billion people are lacking access to clean water. Every day, 6,000 children are dying for the same reason. Eight out of ten diseases in developing countries are related to qualitatively and quantitatively poor water supply or sanitation. Nine out of ten people without adequate water supply live in rural regions (GKKE 2004: 37). The situation is further aggravated by a growing scarcity of water owing to water consumption increasing world-wide as well as climate changes.

This is why the problem of water has become an international concern that the United Nations has increasingly devoted its attention to. MDG 7, »Ensure environmental sustainability«, states the target of halving, by



2015, the proportion of people without sustainable access to safe drinking water. The Johannesburg implementation plan stipulates that the states compile their own national water strategies by 2005. The United Nations declared 2003 the International Year of Freshwater, and they proclaimed a water decade for the second time, namely 2005 – 2015. At a symbolic level, this expresses the urgency of the water problem.

### 2.4.1 Privatising water utilities

Water, originally a public good the provision of which the states used to be mainly responsible for, is increasingly being commodified. The negative consequences of globalisation are drastically demonstrated by water, which is an example of failed privatisation at the cost of the people.

The water utilities have run into crisis not only in the developing countries but, to an increasing degree, in the industrialised nations as well. World-wide, states see a way out of this crisis in far-reaching privatisation of the water sector since they are either unwilling or unable to bear the costs of repairing the water supply systems. At the same time, transnational corporations are demonstrating a considerable interest in becoming active in the water utilities branch also in developing countries. Not only are they receiving World Bank loans for their water projects in developing countries, but state funds are also flowing to the corporations via PPP projects. One of the EU's demands in the framework of GATS is that 65 developing countries open up their water markets to foreign corporation. It can be assumed that the chief beneficiaries would above all be three major corporations from France and Germany.

Frequently, however, the corporations involved are not seeking across-the-board water supply for the population as should be the case with a state-run water supply system. At the forefront of the water corporations' efforts is the desire to increase their profits, which is why they are above all investing in supplies for large cities and rich urban districts. The losers of privatising water supply systems are above all the poor in the cities and the rural regions since they are unable to bear the costs of water supply. Manila is an example of a failed privatisation of the water supply system. There, urged by the World Bank, the water utilities were privatised in 1997. As a result, water rates grew fourfold. Now privatisation is to be reversed again.

### 2.4.2 State obligations resulting from the human right to water

World-wide, people are objecting to high water rates and threatening privatisation of water supply. Those

concerned are demanding that water be declared a human right that is equally accessible to all people. This cause was taken up by the Committee on Economic, Social and Cultural Rights, which spelt out its understanding of water as a human right in General Comment 15 of 2002. This notion is based on a reference to Article 11 (the right to an adequate living standard) and Article 12 (the right to health) of the Covenant on Economic, Social and Cultural Rights.

While this General Comment still remains controversial, referring to water as a human right remains the basis on which states can be committed to ensure adequate water supply and simultaneously consider the local conditions for water supply. For example, local supply systems could be extended and village water committees could be strengthened. At the same time, formulating water as a human right acts as a basis for the donor countries to internationally pledge their contributing to ensuring water supply world-wide for the poorest of the poor with their measures. In order to attain this goal, it may be necessary to additionally allow private sector water supply in some countries. Should this be the case, it ought to act as a supplement to state supply and be under state control, and it has to set out from the goal of water supply for all.

Recognising water as a human right is a novelty and demonstrates the dynamism of human rights. Rather than being a rigid concept, the notion of human rights responds to challenges posed by changes in the areas of society, economics and politics. As historical experience has shown, for example in the case of recognising violence in the private sphere as a violation of human rights, there may initially be resistance to new contents of human rights.

At first, access to clean drinking water was explicitly referred to neither in the Universal Declaration on Human Rights nor in the two Covenants. But already in General Comment 12 on the Right to Food, access to clean water is regarded as an element of this right. General Comment 15 goes beyond this interpretation, stressing the states' national and international responsibility for water supply in a comprehensive manner. Transferring this obligation to private bodies does not relieve governments of their responsibilities.

The German Federal Government addresses the need for sustainable water supply and sanitation in PAA 6 of the Program of Action 2015. The second interim report of 2004 refers to various implementation steps this requires (BMZ 2004b). One special priority of measures in the water sector is the region of Sub-Saharan Africa. Germany's considerable engagement in the water issue is conspicuous in comparison to that of other donor countries. However, its efforts do not necessarily imply an orientation towards human rights. For example, the GKKE (2004: 43pp.) criticises in its third report, »Halbierung der extremen Armut« (halving poverty), »[...] that a policy oriented towards poverty is not being consistently car-

ried through in the water sector [...]«. The main points of criticism are that official development aid funds for the water sector have been on the decline, that only a small share of these funds flows into the poorest countries with the biggest supply problems, and that too little money has been earmarked for improvements in rural supply systems. Moreover, from a human rights angle, the fact that a considerable amount of the funds is flowing into countries where German and European water corporations are pursuing their interests gives rise to concern (GKKE 2004: 46).

Supporting privatisation in the water sector ignores negative experience made in several countries. Usually, it is not poverty-oriented, does not result in people's empowerment and weakens state supply systems. It also undermines the notion that water is a human right and that providing it constitutes an obligation on the part of the state. Moreover, orienting water supply towards the private sector results in the projects and measures in the area of water supply not being consistently focused on the targets of the MDGs and on consistent poverty reduction. For example, the OECD has pointed out that a mere 12 % of funds provided world-wide for projects in the water sector flow into countries in which less than 60 % of the people have access to water.

## 2.5 The human right to education

World-wide, millions of people, especially children, are still unable to assume their human right to education. Around 800 million people are illiterate. Eighteen percent of all children aged between five and 14 years have to work, with 61 % of working children living in Asia (128 million), 32 % in Africa (68 million) and 7 % (15 million) in Latin America. The children's parents are their chief employers. The majority of the children are working in agriculture (UNESCO 2003). That child labour prevails is a result of poverty, and it prevents children from being able to assume their right to education.

Girls and women are particularly disadvantaged in assuming their right to education. More than two thirds of all illiterates are female. The 2003/2004 UNESCO Report shows that girls and women are discriminated against in many ways both inside and outside schools and that they are denied equal entitlement to the right to education. Investments in education, especially in that of women and girls, are important to poverty reduction. But at the same time, the economic conditions have to be in place enabling children to assume their right to education and ensuring that they are no longer forced to work to earn a living and, in many cases, to support their own family.

It is the responsibility of the states to realise the right to education. International human rights conventions contain stipulations on obligatory and free-of-charge pri-

primary education and on non-discrimination in the education sector. Together with the Covenant on Economic, Social and Cultural Rights, the Women's and Children's Rights Conventions contain a comprehensive package of obligations that can be adjudicated with regard to the right to education and also to the demand for gender equality in education.

### 2.5.1 Education – investing in the future

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Irrespective of the considerable socioeconomic significance a good level of education has regarding a society's development and irrespective of the universal establishment of the right to education in international law, conditions in the education sector of many countries are catastrophic. To all societies, education represents an investment into the future. But in spite of a commitment to obligatory school education in the primary school sector, tuition fees are still being levied in at least 101 countries. These are added to by the cost of books, school uniforms and travelling expenses. Such expenditure is unaffordable for poor families in particular. Frequently, school infrastructure is insufficient, and drinking water and sanitation are lacking.

This continuing deplorable state of affairs prompted Katarina Tomasevski to lay down her office as Special Rapporteur on the Right to Education in frustration in 2003. At the same time, she voiced the opinion that this post ought to remain vacant in protest at the states' unwillingness to fulfil their obligation to comprehensively establish the right to education.

Goals 3 and 4 of the MDGs implicitly refer to the right to education. They demand that all children complete primary education and that gender disparity in primary education already be eliminated by 2005. The BMZ's 2nd Interim Report on the implementation of the Program of Action 2015 covers the activities in the framework of the Fast Track Initiative to promote primary education levels in developing countries. It is documented that these activities are co-ordinated projects of different donors. In addition to such comprehensive measures to establish a functioning school system, steps should also be taken to promote school attendance among poor and working children. These include doing away with tuition fees, providing grants, income assistance and school meals, and giving block lessons for working children and children in forced labour.

## 2.6 The right to health

According to medico international, an annual 70 billion US\$ is spent on the health sector. However, a large share of this money flows into affluence problems such as obes-



ity, sleep disorder and impotence. Just a fraction of the means spent is invested in research into malaria, tuberculosis or sleeping sickness, and a mere 10 % of funds in the health sector is provided to combat diseases that 90 % of the world population suffer from. This state of affairs is a slap in the face of poverty reduction and international responsibility for the right to health. For each year, 2.1 million children die of pneumonia, two million of diarrhoea and 1.1 million of measles. These are poverty diseases that could be prevented with better living standards and adequate health care. The reasons the WHO refers to are that more than two billion people still lack access to clean drinking water, that three billion do not dispose of sufficient sanitation and that the provision of the most needed drugs is still not ensured for a third of the world's population.

Thus poverty is one of the chief causes of disease, and at the same time, health represents an important prereq-

### Box 9: Article 12 of the Covenant on Economic, Social and Cultural Rights

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
  - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

uisite to overcome poverty. So adequate health care is indispensable to a decent life. The right to health is laid down in Article 12 of the Covenant on Economic, Social and Cultural Rights (see Box 9):

### 2.6.1 Conditions for realising the right to health

The right to health requires the provision of services by government and non-state actors in caring for people as a contribution to poverty reduction. The focus should be on providing resources. In this context, the report »Partner für die Zukunft. Deutsche Entwicklungspolitik im 21. Jahrhundert« (partners for the future. German development policy in the 21st century) issued by the German Federal Government states

- developing medical infrastructure, in particular improving primary health care in rural regions and on the urban periphery, constructing and equipping hospitals as well as training and upgrading of medical skilled and auxiliary staff;
- the introduction and support of health insurance systems and the decentralisation and creation of health and finance systems based on mutual benefit;
- preventing and controlling epidemics, health and hygiene consultancy for drinking water and sanitation projects, for a multitude of diseases are caused by polluted water in developing countries;
- information and education, especially health education, and in particular regarding pregnancy and delivery, measures against violence and female genital mutilation as well as access to family planning services;
- reducing the mortality rate among infants by primary health care services, above all by vaccination (Presse- und Informationsamt der Bundesregierung 2003).

These different measures are oriented towards the demands in the Covenant on Economic, Social and Cultural Rights and in General Comment 14 on this human right. They provide a useful pattern to measure progress in health care.

### 2.6.2 Pharmaceutical industry and the right to health

The private sector's responsibility for poverty reduction becomes particularly apparent in the health sector. The struggle for shares of the global pharmaceuticals market is resulting in the situation of poor people deteriorating above all in the countries of the South. Pharmaceutical corporations bear co-responsibility for sick people not being able to assume their right to health because the prices of drugs are too high. According to UNAIDS, qualitatively high-standard generic drugs from countries

such as Brazil, Argentina, India or Thailand could reduce therapy prices by more than 95 %. However, the pharmaceuticals industry frequently resists this, justifying its right to patents and the high prices it charges for drugs by referring to the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. According to this agreement, all WTO member states are obliged to also implement the stipulations the TRIPS Agreement makes on patent law, which, however, impedes the options poor countries have to manufacture cheap drugs.

The governments of the industrialised countries have to make clear to the private sector that it bears a fundamental responsibility for the poor in international negotiations, and where necessary, they have to stand up against the corporations. In the framework of TRIPS, this would mean authorising simplifications facilitating the cheap manufacture of generic drugs in developing countries. Given the dramatic situation many sick people in Southern countries are in, NGOs are calling for an amendment to the TRIPS Agreement to the effect that states are to have a right to award compulsory licences to manufacture generic drugs in the case of life-saving drugs.

### 2.6.3 Combating HIV/AIDS

HIV/AIDS is a disease that is spreading throughout many countries of the South as well as Eastern Europe and that is not only bringing destitution and poverty to the sick themselves but is also inhibiting the development potential of the countries affected. Alone in 2003, five million people infected themselves with the virus, raising the total number of its carriers to 38 million.

The struggle against HIV/AIDS is also being complicated by the problem of access to cheap drugs and monopolies on patents. In most countries, the expensive examinations and drugs are only available to five percent of the population at most. However, it is not only economic interests but also political shortcomings that are responsible for the sobering balance on combating HIV/AIDS world-wide that had to be drawn at the World Aids Conference in July 2004. Steps taken to combat the disease taken so far are regarded as failed, for in spite of insights and the scope for preventive measures and treatment, this immune deficiency disease is on the increase. Many governments are not taking the problem seriously enough. People are insufficiently educated, and affordable therapy and treatment measures for the sick are lacking. Accordingly, Peter Piot, Director of the UN's UNAIDS programme, has called on the donor countries to make their contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM). This virtually hopeless situation in the real world is reflected far too weakly in the BMZ's 2nd Interim Report on the Program of Action 2015 (2004b: 29pp.).

### 3 Strengthening the rights of vulnerable groups

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Only in extreme crisis situations are the human rights of more or less the entire population of a country threatened. »Daily« violations of human rights above all cause people to suffer who belong to vulnerable groups. The United Nations counts women, children, elderly people, members of minorities and indigenous peoples as well as unemployed, sick and disabled people and refugees, migrants and asylum-seekers among these groups in particular. Many of these people that are living on the periphery of society are especially threatened by poverty. In the following, three of these groups will be treated in more detail since they ought to be given special attention in poverty reduction in the framework of development policy. They are indigenous peoples and other minorities, women and children.

#### 3.1 The rights of indigenous peoples

Just like other minorities, the roughly 300 million members of indigenous peoples world-wide belong to those sections of the population that are usually living in particular poverty and have been marginalised by society. This can be demonstrated in an exemplary manner by discussing the country report that Guatemala submitted in 2003 and that was deliberated at the 31st Meeting of the Committee on Economic, Social and Cultural



Rights in November of the same year. The Committee highlights the denial of ESC Rights to indigenous people as the country's predominant problem. The government had been asked in what manner indigenous people had been ensured autonomy and what measures it was taking given the fact that the majority of the indigenous population were living in poverty, only disposed of a low level of education and were hardly benefiting from social services. Displacement from land was above all affecting indigenous people, which had further aggravated their situation.

Such violations of indigenous rights can also be detected in other states with indigenous populations. This can be demonstrated with the example of Vietnam, which was selected by the BMZ as one of the pilot countries for the implementation of the poverty reduction programme. And in this dynamic developing country, poverty reduction really does seem to be making progress, albeit only at first glance, as Box 10 demonstrates.

#### *Box 10: Minorities – the losers of poverty reduction in Vietnam*

The overall share of poor people in Vietnam dropped by almost 30 percentage points from 58.1% in 1993 to 28.9% in 2002. However, in the same period, the poverty rate among the ethnic minorities merely fell by roughly 17 percentage points from 86.4% to 69.3%, remaining at a dramatically high level. The reasons given for this are poorer education standards, poorer land, less security and poor access to public services. The Daklak Region is cited as a negative example. Here, the local population are hardly represented in decision-making bodies, and migrants have bought up the best land, forcing indigenous people to move to marginalised regions.

*Source: Swinkels Rob/Lewin Bryan, Commodity Risk Management Group, WB: Coffee, poverty and risk management markets, 2004*

International law also reflects that indigenous peoples and minorities are being disadvantaged. They belong to those sections of the population whose human rights have not been laid down in special agreements. As yet, an agreement dealing specially with the rights of minorities

is not in existence. Only a non-binding Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was passed in 1992. At international level, ILO Convention 169 of 1989 currently represents the most powerful legal instrument for the protection and support of indigenous people. This convention obliges the accession states to recognise and promote the land rights, the political and social forms of organisation and the cultural institutions of the indigenous peoples. However, this international treaty had only been ratified by 17 states by 2004, and among these, only three, Denmark, the Netherlands and Norway, were industrialised nations.

Already in 1996, the BMZ recommended in its Sector Paper (073/1996) that DC with American Indian sections of the population be based on ILO Convention 169. This position ought to be extended to indigenous peoples world-wide. One aspect it would imply is that »priorities for the development process [would be] determined by the indigenous peoples themselves« (Rathgeber 2002). At the same time, the focus is on recognising the rights of indigenous peoples and acceding to the ILO Convention.

### 3.2 Strengthening the human rights of women

Sixty percent of all illiterates are women. In some societies, girls and women are more poorly nourished than men. In many places, owing to poor health care, especially in pregnancy, women are exposed to special risks. Moreover, they suffer from violence and sexual attacks within their families and in society in general. According to UN estimates, 130 million women world-wide are victims of genital mutilation. A report of the »Deutsche Welthungerhilfe« states that, throughout the world, 15.7 million women are infected with HIV/AIDS (cf. Chapter 2.6). In wartime situations, women are particularly threatened by sexual violence, prostitution, kidnapping, and being forced into sex slavery or to become child soldiers or combatants. Eighty percent of the roughly 40 million people fleeing armed conflict and human rights violations are women and children. The lack of food, clean drinking water and health care leads to an increased mortality rate among mothers. Women become unemployed more quickly and dispose of around 25 % less income than men. This data demonstrates that poverty is threatening women world-wide in a special way.

The list gives a dramatic impression of the comprehensive nature the violations of human rights of women, in spite of 177 states having acceded to CEDAW by March 2004. Moreover, this agreement contains the largest number of reservations on the part of the states, which, as a rule, restricts its contents or outreach. The basic obligations of the states party to the agreement are estab-

lished in CEDAW in order to ensure equal rights and an equal status for women:

#### Box 11: Article 3 of CEDAW

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

In 2000, CEDAW was boosted by a facultative protocol allowing individual complaints after legal proceedings at national level having been exhausted. This gives women and women's organisations the opportunity to have cases of discrimination reviewed by the responsible UN committee. This committee can also initiate inquiries if there is evidence of a state party to the agreement gravely or systematically violating human rights of women.

The issue of equal rights for women is a key topic in DC both with a view to improving the situation of women and since women are of considerable significance in the development process. However, various approaches such as gender mainstreaming have so far failed to make a substantial contribution to improving the living standards of women.

### 3.3 Strengthening the human rights of children

Just like grown-ups, children are also legal entities bearing human rights. These rights have been comprehensively laid down in the UN Children's Rights Convention already mentioned above. Here, familiar human rights such as the rights to life, freedom of expression



and information, education and health and generally to social security for children are formulated and, wherever necessary, adapted to the situation of children. Out of all international human rights conventions, with its 191 ratifications, the Children's Rights Convention has been most extensively recognised by governments. Only the USA and Somalia have still not joined this agreement. This convention is supplemented by two protocols devoted to human rights violations affecting child soldiers and to the sexual exploitation of children. In a similar manner to the Covenant on Economic, Social and Cultural Rights, an individual complaints procedure has been called for regarding the Children's Rights Convention for some years (Müller 2002).

Despite a widespread pledge to respect children's human rights, they are being violated world-wide. This applies in particular to the right to education the fulfilment of which is of particular significance for children's future (cf. Chapter 2.5). The right to health of many children is also being violated in an especially blatant manner in several developing countries in particular, where, according to UNICEF, almost 30,000 children under the age of five are dying daily of treatable or avoidable diseases such as diarrhoea (cf. Chapter 2.6).

In many countries, it is particularly the children who are affected by poverty. They come from poor families who cannot feed their children. If the parents are sick, have disappeared or are dead, children are the sole providers for their families. Such circumstances lead to children not being able to live their childhood. They are denied fundamental human rights such as the rights to food, health and education and to protection from exploitation and abuse.

From the angle of NGOs such as »Kindernothilfe« (emergency aid for children in need), the situation of poor children is given far too little consideration in the poverty reduction policies of the international finance institutions and major donors. This applies to the PRSPs of Latin American, Asian and African countries, where the under-eighteens account for more than 50 % of the total population in 21 out of 30 countries (Heidel 2004: 9). Kindernothilfe criticises that »again and again, children appear in the (I) PRSPs as objects threatened by, and therefore in need of protection from, malnutrition, disease and basic poverty.« (Heidel 2004: 9)

Such a notion fundamentally contradicts a human rights-based approach treating children as holders of rights as expressed in many articles, including Article 12 of the Children's Rights Convention (CRC) itself:

*Box 12: Article 12 of the Convention on the Rights of Children*

(1) States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

The needs and rights of children have to be given systematic consideration in all poverty reduction policies, also in the compilation and implementation of PRSPs. This encompasses that children themselves or their representatives have a voice in all relevant processes.

Given world-wide poverty among children, it appears to be important to enhance the rights of working children. In November 2000, Convention 182 of the ILO on the prohibition of the worst forms of child labour entered into force. This agreement campaigns for a ban on child labour and for combining labour and education in an appropriate manner. Here, an integrated approach to promoting education, health and youth is seen as a priority. In addition, NGOs have formulated specific demands recognising that many children have to work to earn a living. In this context, child labour has to be designed with a view to human rights standards. For example, such children ought to be entitled to the right to organise. In this manner, the right of self-determination of working children is respected and they are recognised as autonomous subjects. The ILO and most children's rights NGOs agree that both on the part of the states responsible and among the respective actors in civil society, every effort has to be made to outlaw exploitative, humiliating forms of child labour damaging the physical and mental development of children and to guarantee as a minimum standard that working children can attend school.

Sometimes it is difficult in rich industrialised countries to gain attention for diversified demands regarding child labour because child labour as such is regarded as reprehensible. TNCs in particular do not wish to be associated with child labour because this could damage their reputation. The BMZ ought to resist this »simple« albeit ultimately comfortable notion. Especially in the context of poverty reduction, more information on the needs and rights of (working) children is required in German society and also with regard to the private sector.

## 4 Globalisation and human rights

As a rule, negative consequences come to the fore in treating the impact of globalisation on human rights. They include the loss of cultural identity owing to the spreading of so-called Western mass culture. The focus is also on the negative effects of neoliberal globalisation when the economic activities of TNCs are discussed. Criticism is also levelled at restrictions on the ability of states, especially in countries of the South, to take action, which coincides with increasing political influence on the part of TNCs. From a human rights angle, these tendencies aggravate the threat of human rights violations or at least result in the conditions to assume human rights being limited.

Nevertheless, in addition to risks, globalisation also bears opportunities for human rights. Thanks to global information networking, e.g. via Internet and E-mail, it is no longer as easy to cover up human rights violations and abuse of power as it was in the past. Since the nineties of the previous century in particular, a globally networked civil society has emerged that is continuing to develop its networking capacity in which international, regional, national and local groups are active. These transnational networks have become an important factor influencing politics. In developing countries and in east European countries, jobs are being created that would not exist without a globalised economy. Even if the working conditions in such subsidiaries or in supply chains frequently do not meet international standards, they are usually better than those of the domestic economy. Moreover, with the globalisation of the economy, there are prospects of the demands for a globalisation not only of the observance of social, environmental and human rights standards but also of the instruments to fulfil these standards and of transnational corporate responsibility for such standards being discussed world-wide.

### 4.1 Globalisation exacerbates poverty and inequality

Both negative and positive effects of globalisation can also be observed with regard to the situation of poor people and efforts world-wide to reduce poverty.

Proponents of globalisation above all stress opportunities arising through the possibility of increased eco-

economic growth and, hence, greater prospects of increases in income. Economic growth on its own is already seen as a motor of development. Moreover, owing to more and more demands for transparency and accountability urged by the global public in the shape of the media and the Internet, prospects for democratisation would improve, providing a major prerequisite for more equality within a society.

In contrast, critics call into question these positive effects of globalisation. While economic growth is seen as necessary in the economic sector, it is not regarded as sufficient to combat poverty. Economic growth, critics argue, does not automatically lead to more openness and poverty reduction.

Data bears out that the income gap between the rich industrialised countries and the poor developing countries is growing in the course of economic globalisation. Within society, the gulf between poor and rich people is continuing to widen both in the industrialised and the developing countries. Economic deregulation, which is typical of neoliberal globalisation, goes hand in hand with a growing flexibilisation, downgrading of social standards and, in many countries of the South, with the suppression of trade unions. Thus, especially in the course of economic globalisation, human rights are being violated world-wide, with the responsibility for this state of affairs above all lying with the TNCs.

Critical assessments of this kind were also presented at an OECD conference (Kohl 2003: 14) on the consequences of globalisation. The study covering this event states that globalisation has undesirable outcomes in several countries, that Foreign Direct Investment (FDI), privatisation and the liberalisation of the finance markets are not beneficial across the board but above all create advantages for those who already hold privileged positions. Poor and disadvantaged groups are the losers. It is argued that trade liberalisation in particular weakens the position of workers.

From a human rights angle, many of these developments can be regarded as violations of human rights or at least as an endangering of the conditions to assume human rights. Poverty reduction can only be successful if the process of economic globalisation is shaped according to human rights requirements.

## 4.2 Globalisation changes the role of the state

In the political sphere, globalisation increases inequality in power relations both at global level and within the developing countries. Inhibiting the ability of states to act, especially in the countries of the South, goes hand in hand with strengthening the political influence of transnational corporations. Already existing socioeconomic and political problems are exacerbated by globalisation in developing countries. However, in this respect, the OECD study (Kohl 2003: 16) stresses that it is not globalisation but above all internal factors that are crucial to this problematic state of affairs. In many developing countries, political stability is threatened by wars, civil wars and armed conflicts. This jeopardises the exercising of state functions and results in failing states and, in extreme cases, in failed states.

Changes in state functions that represent an important prerequisite for respecting, protecting and fulfilling human rights are of significance in this context. Human rights are closely related to the provision of public goods so that the people in the territory of a state can live in dignity. Providing public goods and services, which represents a duty of the state from a human rights angle, creates the foundations for state legitimacy, a prerequisite in the absence of which a state cannot survive unless it resorts to constant violence. In many developing countries, however, a comprehensive establishment of working social systems has never been achieved. This weakness is being exacerbated by the process of globalisation, for privatisation tendencies as a result of neoliberal globalisation are leading to more and more public goods being privatised and commodified to an ever increasing degree. They include the social services and the education system as well as, for example, water supply. Privatisation tends to undermine state responsibility for human rights, and a responsibility gap emerges because the private sector cannot and is unwilling to assume this responsibility.

This forfeiting of state functions on account of globalisation is being criticised from a civil society angle, and in particular from the perspective of human rights. However, demands for the fulfilment of state obligations frequently sound helpless and represent appeals. For the question has to be asked how state obligations and tasks can be demanded in concrete terms given the changed conditions of globalisation. Some of the measures in this respect can be:

- Understanding a neglect of state duties as a human rights violation and giving more attention to it in shadow reports by NGOs. An ongoing reference to state obligations ought to be established.
- Relating to the states of the South, institution and capacity building has to be at the forefront of efforts to enhance state functions.



- NGOs from the development and human rights sectors ought to step up co-operation and learn from each other in order to be in a better position to demand that the state observe its responsibilities via a human rights-based approach to development activities.
- Non-state actors, in particular TNCs, have to be increasingly held accountable, and they have to orient their economic activities towards human rights and poverty reduction. At the same time, TNCs have to make a contribution to enhancing state functions instead of taking advantage of their position to enjoy special regulations. This includes paying taxes as well as rejecting bribery and corruption.

## 4.3 International finance and economic policy

For developing countries, in addition to political will and the institutional framework conditions, it is above all financial resources that represent an important prerequisite for them to make their contribution to attaining the MDGs.

This is why international finance and economic policy is also crucial to whether the MDGs can really be attained, for human development, including poverty reduction, is not possible without economic development. However, one essential precondition is that economic growth is oriented towards the poor.

For a long time, it was above all the IFIs that imposed an economic policy on developing countries with demands for structural adjustment measures at the cost of the poor population. With its PRSPs, the World Bank has been attempting to enable a greater orientation towards national economic policies on the needs of the poor since autumn 1999. However, the effect of the PRSPs regarding poverty reduction is controversial. For example, Oxfam (2004) holds that most of the PRSPs still prioritise struc-

tural adjustment measures without really considering the impact of these measures on the poor. PRSPs have also been criticised for turning a blind eye on the needs of women and children (Heidel 2004). Although the PRS processes do provide new scope for dialogue and democratic participation, in the majority of the PRSP countries, representation of civil society has so far tended to be limited to consultation rather than true participation.

In addition, especially in NGO circles, the need is being discussed to link debt relief for Low Income Countries (LICs) more closely to the MDGs. As the HIPC initiative demonstrated, debt sustainability criteria applied so far are not suitable to provide the necessary financial scope for countries to implement the internationally agreed 2015 goals. This is why NGOs demand a fundamental review of debt sustainability criteria and their orientation towards the requirements of poverty reduction and – quasi as a minimum level – on the attainment of the MDGs (INKOTA 2004).

#### 4.4 The private sector and its responsibilities in combating poverty

Globalisation is forcing the private sector, in particular the TNCs, to assume greater responsibility for compliance with social, environmental and human rights standards. The private sector has accepted this responsibility by developing voluntary initiatives for Corporate Social Responsibility (CSR), representing an attempt to show itself in a favourable light while countering increasing demands for binding global regulations.

However, experience has shown that above all TNCs are responsible in very different ways for poverty in the South. Examples from the water sector and pharmaceutical industry have already been referred to. Companies, both TNCs and, increasingly, medium-sized enterprises representing very different branches, are investing in so-called low-wage countries of the South while not taking human rights seriously or disregarding them altogether. They are »attracted« by more favourable investment conditions, also in the special economic zones and free trade zones with which governments attempt to get foreign capital into the country. In many cases, working conditions there are catastrophic and reminiscent of exploitation in early capitalism in Europe and the USA. Economic and social rights are denied or not realised in the absence of a corresponding social infrastructure, e.g. in the health and education sector. Regarding political rights, bans on and the suppression of trade union organisation up to the persecution of trade union activists are at the forefront. Women in particular suffer from various forms of discrimination at the workplace. As a rule, they work in worse conditions than men and are paid more poorly, and expectant and nursing mothers are frequently denied

legal protection. In many cases, TNC business practice threatens the environmental and cultural resources of the people affected. If the latter start to defend themselves against exploitation and the destruction of their livelihoods, often enough, the military and the police are brought in to quash protests.

It would be up to the states to stop such inhuman business practice. For their obligation to protect human rights implies that they have to prevent violations of human rights by third parties, e.g. on the part of corporations. This means that, as already explained above, international law entrusts the states with the responsibility for a conduct of »their« corporations conforming to human rights. However, this approach to stressing state responsibility, which tends to correspond more to the traditional notion of human rights, is insufficient since the states do not control the private sector or at least do not do so comprehensively. Rather, they seek to promote their own economy, frequently with disregard for their responsibility for human rights, and support it in the competitive struggle for locational advantages.

However, not only does there appear to be a lack of political will to regulate the private sector. Rather, the process of economic globalisation and the transnational activities of major corporations are also complicating necessary state control. Because state regulation is failing, NGOs and trade unions are forming single-issue alliances of convenience in order to spread information on the frequently devastating impact of economic activities above all of the TNCs in the countries of the South and discuss common steps against the companies responsible for such situations. Thus, at least in some areas, a critical public is created in the industrialised countries, which puts pressure on enterprises world-wide. This criticism is part of discontent with the neoliberal model of globalisation that rejects any regulation of the economy and assumes that welfare and democratisation effects will result quasi automatically from global economic activities.

Many governments and the majority of enterprises regard voluntary agreements, codes of conduct, seals of quality and, last but not least, the Global Compact as suitable instruments to steer the global economy. However, these instruments reach only a small number of enterprises, and in several cases, grave violations of social, environmental and human rights standards cannot be prevented by them. This is why, in the face of corporate resistance as well as opposition on the part of most states, NGOs are demanding binding regulations for enterprises acting at global level as a supplement to voluntary agreements. Drawing up such a binding set of regulations has been attempted several times by United Nations since the seventies of the last century but has been stopped again and again by corporate influence. Currently, the *United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* are being discussed as a

possible set of regulations for the private sector. These norms are of particular importance since, together with the annexed commentaries, they provide concrete criteria for implementation and monitoring as well as for accountability of enterprises and the states. The implementation mechanisms and compensation in the case of violations in particular give these norms considerably more weight than that of voluntary codes of conduct. Additionally, the authority of the United Nations underscores the significance of these norms, for many human rights conventions that are binding by international law initially emerged from non-binding declarations. The norms were first deliberated by the UN Commission on Human Rights in April 2004 and referred to the High Commissioner for Human Rights to be further reviewed.

In the long run, such a set of regulations could also attain considerable importance since it would close the gap between voluntary agreements and existing international law. Observance of internationally recognised standards by the private sector would also be an impor-



tant contribution to poverty reduction because the private sector would have to fulfil concrete obligations at global level.

## 5 Recommendations for a human rights-based approach to German poverty reduction policy

In a World Bank and IMF survey of April 2004 titled »Global Monitoring Report 2004 – Policies and Actions for Achieving the MDG's and related outcomes«, the two Bretton Woods Institutions warn that most of the MDGs cannot be attained in the majority of the countries they are aimed at. In particular, the goals for human development threaten to be missed world-wide if all those involved do not considerably step up their efforts. The institutions argue that this can only be achieved by focussing measures, setting up measurable intermediate targets and more co-ordination of poverty reduction policy among the community of states.

The present study holds that poverty reduction can only be successful in the long run if, in addition to greater efforts, poverty reduction is reoriented, with the poor no longer being regarded as objects of policies but as subjects, i.e. as people with rights. Political measures have to enable them to take their affairs into their own hands. Such a human rights-based approach to poverty reduction changes policies in two respects. For one thing, the states then recognise poverty reduction as a national and international obligation resulting from their accession to human rights conventions and from customary international law. This implies an extensive and consistent direction of DC funds into poverty reduction. Second, the issue of ensuring basic human rights is addressed, which above all means recognising that poor people are also legal entities one consequence of which is that the poor are to participate in these policies.

In addition, demands regarding various human rights and particularly disadvantaged groups have been formulated that are to be considered by a poverty reduction policy focused on human rights. They are once again summarised in table 2.

Serious poverty reduction efforts on the part of the German Federal Government should not be denied. Nevertheless, there is a danger of window dressing.

In a development policy consistently oriented towards poverty reduction, those regions, countries and groups of people ought to form the focus that are particularly affected by poverty. These clearly include the region of Sub-Saharan Africa as well as the other LDCs and LICs and, world-wide, the particularly vulnerable sections of the population, especially children, women, old, sick and disabled people and indigenous people and other minorities.

It is paramount that the German Federal Government recognises poverty reduction as a state and international obligation. This responsibility covers all relevant policy fields, i.e. the social, environmental, economic and, finally, the political field. At the same time, it applies to all levels of activities, i.e. multilateral and bilateral DC, German and European economic, finance and trade policy, involvement in international finance institutions and policies vis-à-vis transnational corporations.

A commitment of this kind implies accountability, i.e. the German Federal Government also has to give a concrete account of its measures to combat poverty to the United Nations human rights treaty bodies and in further interim reports in the framework of the Program of Action 2015. Such reporting is part of a comprehensive state accountability.

At the same time, recognising the duties the state has in poverty reduction means making a special effort to see to it that the governments of the South recognise their obligations and can fulfil it practically. Following the slogan of »developing countries in the driver's seat«, on the one hand, these countries must accept their responsibility for their own development efforts, and, on the other, international development, economic and finance policies have to aim at correspondingly empowering the states of the South. This includes reinforcing state institutions and supporting the setting up of transparent state structures. Here, the emphasis is on assuming the obligations resulting from accession to the human rights conventions as well. But empowering the states of the South also means that they must have equal voice in the development of international relations and the global economy. This is an essential precondition for the success of national development policies.

The explanations and remarks of the various UN human rights treaty bodies conventions as well as other human rights institutions should be consulted in planning and executing poverty reduction policies. More co-operation between development and human rights institutions is required for poverty reduction to become sustainable.

The MDGs also represent a challenge for the international community of states. They incorporate measurable objectives that almost seem to go without saying when it comes to mitigating suffering and injustice throughout the world, developing globalisation according to interna-

Table 2: Demand for a human rights-based approach to poverty reduction

Demands	Measures
<b>Orientation of policies</b>	
Recognising the extraterritorial obligations of the state to respect, protect and fulfil human rights	Reporting on development co-operation and measures to combat poverty in the state reports to various human rights committees; assessing these policies from a human rights angle; orienting poverty reduction towards international human rights conventions; considering the state reports of recipient countries.
Consistent orientation towards poverty	Considering particularly disadvantaged people and groups in poverty reduction; responsible involvement of the private sector in combating poverty; greater regulation of the global economy with the aim of human development.
<b>Political human rights</b>	
Right to participation Non-discrimination	Vulnerable people and groups, especially women, children and minorities, have to be given consideration in all measures; specific policies for these people and groups are required in addition; active participation of the poor in the various poverty reduction measures right from their inception on; empowerment via education and special human rights education measures; institutional reforms to ensure participation, e.g. decentralisation; political representation of those concerned.
<i>Institution building</i>	Reinforcing the human rights responsibilities of the states; establishing principles based on the rule of law; developing an effective judiciary system; creating transparency by demanding accountability.
<b>Social human rights</b>	
Right to food	Securing and extending access to resources in urban and rural areas; orienting PPPs towards pro-poor requirements; setting up welfare systems for needy, disabled and sick people. Corporations may not violate the right to food in the framework of their field of activities and must contribute to ensuring that the right is realised; comprehensive application of the FAO Guidelines.
Human right to water	Securing water supply for all people; orienting PPP projects for water supply towards poverty reduction; strengthening state water supply and supporting local and decentralised supply systems.
Human right to education	Equal entitlement to the right to education; free-of-charge primary education; financial support to promote poor children and youths.
Human right to health	Provision of medical services for all people by state and non-state actors; using the report »Partner für die Zukunft...« (partners for the future) as a pattern for a health policy oriented towards the needs of the poor; authorising generic drugs to provide sick people with affordable drugs; stepping up international efforts to combat HIV/AIDS.
<b>Strengthening the human rights of vulnerable groups</b>	
Indigenous peoples and minorities	Enhancing their legal status, also by ratifying ILO Convention 169.
Women	Strengthening equal rights for women in all areas; reinforcing CEDAW in the developing countries.
Children	Establishing an individual complaints procedure in the framework of the CRC; considering and involving children in PRSPs; strengthening the rights of all children, including those who have to work.

tionally recognised social, environmental and human rights standards and, ultimately, to asserting human rights. »The MDGs are morally imperative and legally binding – as they are embedded in human rights treaties,« states Jan Vandermoortele (2004: 5), Head of UNDP's Poverty Group. He refers to seven conditions that are essential to an objective-oriented approach such as that of the MDGs having any prospect of success:

- formulating concrete and measurable targets;
- informing a broad public of the targets;
- adjusting the targets to the national context and the local priorities;
- formulating concrete intermediate targets;

- continuous and consistent monitoring; development of suitable indicators and provision of suitable data to measure progress made (also regarding intermediate targets).
- assuming a leading role;
- providing financial resources using the 20/20 agreements and 0.7 % ODA target as a yardstick.

Finally, the German Federal Government as well as all other states are to recognise that the pursuit of the MDGs as well as a successful poverty reduction policy requires global governance, i.e. the involvement of non-state civil society and private sector actors at all levels of activity.

## 6 Conclusions for NGO practice

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The MDGs represent a challenge not only for the states but also for NGOs. At the same time, they offer the latter an opportunity to promote fundamental human rights, development and environment policy issues. Combining the wide range of expertise NGOs have in these three different fields of policy can be conducive to attaining the MDGs. A precondition for this is that NGOs also intensively take up the MDGs and develop detailed proposals on implementation as well as measuring criteria regarding how a state policy to realise the MDGs should be conceived. Since the individual MDGs are closely connected, individual chief goals ought to be formulated the attainment of which is a priority for the NGOs. To this end, the NGOs should jointly base poverty reduction on a human rights-based approach and work out concrete objectives for some focal issues. This could contribute to eliminating a major weakness poverty reduction and MDG policies have borne so far, i.e. a lack of objectives that can be made operational and measurable. Furthermore, the states have to focus on their MDG policies in their respective state reports, especially, as explained above, in the framework of the Covenant on Civil and Political Rights and Covenant on Economic, Social and Cultural Rights and the Women's and Children's Rights Conventions. One element of this has to be the issue of how the states are pursuing poverty reduction policies in international organisations. It is up to the NGOs to consistently demand this and critically review state policy in shadow reports.

A human rights-based approach ought to be reflected in lobbying activities, in monitoring of state and international policies to attain the MDGs and in civil society transnational networking and support of NGOs from the South. In lobbying, the significance of and need for a human rights-based approach should form the focus in poverty reduction. Concrete and measurable targets for the attainment of the MDGs should already be discussed in the phase of lobbying activities.

Regarding monitoring, the seven conditions for goal-oriented activities for the MDGs submitted by the UNDP Poverty Group could constitute a general framework. Setting one's own civil society priorities and developing concrete steps is an important prerequisite not only for successful lobbying, but also for monitoring. What appears to be essential here is to put special emphasis on specific human rights and simultaneously maintain an ongoing critical review of state and international poverty reduction policy. One important precondition for this is cooperation with NGOs from the South. Here, one issue is to support NGOs campaigning for the attainment of the MDGs in the South. Second, specific local factors can be made use of in lobbying and monitoring donor countries and international organisations. Participation in the international MDG campaign offers a good opportunity to develop this type of transnational networking.

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## The VENRO Project »Perspektive 2015«

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In order to contribute to the implementation of the Millennium Development Goals (MDGs), internationally agreed at the UN Millennium Summit in the autumn of 2000 and supported in Germany by the Federal Government's »Aktionsprogramm 2015« (Program of Action 2015), VENRO launched the project »Perspektive 2015 – Armutsbekämpfung braucht Beteiligung« (Prospects for 2015 – Combating poverty requires participation). This project is chiefly aimed at improving the level of information among the German public regarding the goals of halving poverty and socially and environmentally sustainable development related to 2015. Here, particular emphasis is placed on reporting on current developments at international level (above all the UN, the World Bank and the EU) as well as on initiatives run by the NGOs. Also, the project has set itself the target of urging the objectives that are described in the Federal Government's Action Program – usually only in a general and vague form – to be put into practice and of contributing to conceptual advancement.

The project consists of four components:

1) The *Project Website* »[www.2015.venro.org](http://www.2015.venro.org)«, which is constantly provided with new texts and up-to-date information in addition to containing the basic aspects of the MDGs.

2) The *Website* »[www.prsp-watch.de](http://www.prsp-watch.de)« compiled in cooperation with the Institute for Development and Peace (INEP), which provides basic information on the compilation and implementation of the Poverty Reduction Strategy Papers/PRSP launched in the context of the 1999 Cologne G7/G8 Summit's debt cancellation initiative. At present, 53 country profiles (from »Äthiopien« to »Zentralafrikanische Republik«; English summaries under preparation) are available that contain the contents of the (preliminary or final) PRSP and civil society's involvement in the PRS process.

3) The *Newsletter* »2015 aktuell«, which appears once a month and provides news on the international debate and NGO activities concerning the MDGs on three to four pages an issue. The newsletter (only in German) can be subscribed to online via the two project websites.

4) The *publication series* »2015 im Gespräch/ 2015 in Dialogue«, which offers a collection of policy and lobbying papers on the various fields of combating poverty. The brochure on hand on Human Rights and Poverty Reduction represents No. 7 of this series. The titles of the publications issued so far are:

- No. 1: »Armut bekämpfen – Gerechtigkeit schaffen. Folgerungen aus der internationalen und nationalen Debatte über Armutsbekämpfung für die deutsche Entwicklungspolitik«
- No. 2: »Development Needs Financing – How Financing for Development Can Contribute to Reaching the 2015 Goals«
- No. 3: »Globale Armut – Europas Verantwortung. Ein Vorschlag zur Reform der EU-Entwicklungszusammenarbeit« (German version of the BOND paper »Tackling Poverty – a proposal for European Union aid reform«)
- No. 4: »PRSP – Prospects and limits of civil society involvement«
- No. 5: »Trade – A driving force in combating poverty? Development perspectives regarding the WTO Doha Round«
- No. 6: »Poverty reduction and crisis prevention. How can poverty reduction be shaped conflict-sensitively?«

These papers can be found on the Website »[www.2015.venro.org](http://www.2015.venro.org)«.

The project is being financed with funds of the German »Federal Ministry for Economic Cooperation and Development« (BMZ)

The project is located in the VENRO office in Berlin and represented by Klaus Wardenbach (co-ordinator) and Jens Ramlow.

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# FORUM MENSCHENRECHTE

The »Forum Menschenrechte« is a network of more than 40 German NGOs campaigning for improved, comprehensive human rights protection – world-wide, in certain world regions, countries and the Federal Republic of Germany. The Forum was founded in 1994, following the Vienna Conference on Human Rights.

## Our goals

The Forum's joint activities above all serve the following goals:

- critical monitoring of the German Federal Government's and the German Federal Parliament's human rights policy at national and international level,
- conducting joint projects to improve the protection of human rights world-wide,
- raising awareness of human rights issues among the German public, and in doing so also pointing to possible violations of human rights in Germany and working towards resolving them,
- exchanging information on issues relating to human rights among our member organisations,
- supporting local, regional and national NGOs in international aspects of their work and in promoting an international networking of NGOs.

## How we work

Within the Forum, various working groups are responsible for compiling joint statements and material and for preparing public events and expert talks. Forum Menschenrechte works closely together with NGOs at European and international level.

The work of Forum Menschenrechte is co-ordinated by an eight-member Co-ordinating Circle that is elected by the Forum members. Its composition reflects the political range of our member organisations. Since January 2004, the Co-ordinating Circle members have comprised:

Daniel Bogner, Deutsche Kommission Justitia et Pax  
Günter Burkhardt, Pro Asyl  
Ute Hausmann, FIAN  
Barbara Lochbihler, Amnesty International  
Jochen Motte, Vereinte Evangelische Mission  
Ingeborg Rürup, Humanistische Union  
Andreas Selmecki, Diakonisches Werk der EKD  
Beate Wagner, Deutsche Gesellschaft für die Vereinten Nationen

The Forum Secretariat works at »Haus der Demokratie und Menschenrechte« in Berlin. The Forum is funded via its members' contributions. Since 2003, the Forum has been recognised as a charitable organisation.

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