

CHILD POVERTY AND CHILDREN’S RIGHTS: AN UNEASY FIT?

*Wouter Vandenhoele*¹

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INTRODUCTION

What do we know about child poverty in advanced economies and affluent societies like those of the United States of America and Europe? Recent reports by the National Center for Children

1. Wouter Vandenhoele teaches human rights and holds the UNICEF Chair in Children’s Rights at the Faculty of Law of the University of Antwerp (Belgium). The UNICEF Chair is a joint venture of the University of Antwerp and UNICEF Belgium. He is the spokesperson of the Law and Development Research Group and chairs the Research Networking Program “Beyond Extraterritoriality: Globalization and Transnational Human Rights Obligations (GLOTHRO). His research interests include economic, social and cultural rights, children’s rights, and the relationship between human rights law and development. UNICEF respects the academic freedom of the chair holder. Opinions expressed by the chair holder do not commit UNICEF.

in Poverty of Columbia University (NCCP), the United Nations children's fund (UNICEF) and the Organization for Economic Development and Cooperation (OECD) offer quantitative data, but also insightful qualitative findings. For example, more than one in five American children (22 per cent), that is nearly 16 million children, fall below the relative poverty line, which UNICEF defines as living in a household that earns less than half of the national median. 45 per cent of children in the US live in low-income families.² Child poverty rates are highest among black, Latino, and American Indian children. There are considerable differences across the states. The percentage of children living in low-income families (both poor and near poor) has increased from 40 per cent in 2006 to 45 per cent in 2011.³

On average, families need an income of about twice the level of the relative poverty line to cover basic expenses. Most of the children living in low-income families have parents who work, "but low wages and unstable employment leave their families struggling to make ends meet"⁴

The UNICEF Office of Research 2013 league table of child well-being ranks 29 developed countries according to the well-being of their children for five dimensions (material well-being, health and safety, education, behavior and risks, and housing and environment), drawing on statistics applying to the 2009-2010 period. The USA ranks 26th out of 29, with an average rank on all 5 dimensions of 24.8. On material well-being, it ranks 26th; on health and safety, 25th, on education 27th, and on behaviors and risks, and on housing and environment, 23th. The research of UNICEF's Office of Research shows that there is no strong relationship between per capita GDP and overall child well-being. Portugal, for example, is ranked higher than the United States, whereas per capita GDP in 2010 was USD 21,382 in

2. SOPHIA ADDY ET AL., BASIC FACTS ABOUT LOW-INCOME CHILDREN 1, 2 (Jan. 2013), available at http://www.nccp.org/publications/pdf/text_1074.pdf.

3. *Id.* at 4.

4. National Center for Children in Poverty, *Child Poverty*, NCCP.ORG, <http://www.nccp.org/topics/childpoverty.html> (last visited March 9, 2014).

Portugal, and USD 46,616 in the United States.⁵ The bottom four places in the table are occupied by three of the poorest countries in the survey, Latvia, Lithuania and Romania, but also by the United States, one of the richest. Secondly, child poverty is particularly susceptible to governments' policies, which makes it all the more important to assess the impact of new policy measures on children.

OECD research shows that the percentage of all children under 18 years old in low-income families surpasses that of adults. In addition, children are over twice as likely as adults 65 years and older to live in poor families.⁶

These and other data show that there is a strong and increasing prevalence of child poverty, and mandate a strong response for addressing child poverty in particular. They also show that GDP is not decisive: child well-being is also, and maybe rather, a matter of policy. Employment of parents does not suffice to lift families out of poverty. There are huge differences along ethnic lines, which raises additional questions of non-discrimination and equality.

I. CHILDREN'S RIGHTS AND CHILD POVERTY

Child poverty is an affront to human dignity, and therefore seems to be blatantly in violation of the human rights of children: poverty is not in their best interests, it is often strongly intertwined with discrimination due to lack of equal opportunities, it is against their right to development, it may be a form of violence, and it is certainly not in line with their right to a standard of living adequate for their physical, mental, spiritual,

5. *GPD Per Capita (Current US\$)*, THE WORLD BANK, <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> (last visited July 5, 2013).

6. ORG. ECON. COOPERATION & DEV. [OECD], *CRISIS SQUEEZES INCOME AND PUTS PRESSURE ON INEQUALITY AND POVERTY* 6, 7, (2013), available at <http://www.oecd.org/els/soc/OECD2013-Inequality-and-Poverty-8p.pdf>.

moral and social development.⁷ By extension, at least all economic and social rights (including the right to health, education, social security and so on) are implicated.

However, from a more legal technical point of view, framing child poverty as a children's rights issue in an adequate way is far more challenging. Poverty is not explicitly mentioned in any of the core international human rights treaties, including the Convention on the Rights of the Child (CRC). In van Bueren's view, children's economic and social rights are a "concrete set of responses to specific facets of child poverty."⁸ Whether that statement holds true or not, the relationship between human rights of children and poverty is conceptually vague and in need of further clarification. In what follows, I offer some entry points. Several approaches can link children's rights/human rights to poverty.⁹ In what follows, I outline two such approaches under an obligations approach to child poverty:¹⁰ a right to protection against poverty and a rights-based approach to poverty. I will then turn to the Committee on the Rights of the Child's approach to poverty.

A. A Right to Protection Against Poverty

Only a few human rights instruments mention poverty explicitly. In the Revised European Social Charter, a Council of Europe instrument, a right to protection against poverty and social exclusion is guaranteed.¹¹ Article 30 RESC reads:

7. Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3, arts. 2, 3, 6, 19, 27 [hereinafter CRC].

8. Geraldine Van Bueren, *Combating Child Poverty - Human Rights Approaches*, 21 HUMAN RIGHTS QUARTERLY 680, 681 (1999).

9. See generally F. Doz Costa, *Poverty and Human Rights: from Rhetoric to Legal Obligations. A Critical Account of Conceptual Frameworks*, 9 SUR - INTERNATIONAL JOURNAL ON HUMAN RIGHTS 81(2008).

10. See generally Audrey R Chapman, *A "violations approach" for monitoring the International Covenant on Economic, Social and Cultural Rights*, 18 HUMAN RIGHTS QUARTERLY (1996). (distinguishing between an obligations and a violations approach).

11. European Social Charter (revised), Mar. 5, 1996, CETS No. 163 [hereinafter RESC].

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a) to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b) to review these measures with a view to their adaptation if necessary.¹²

The Explanatory Report explains poverty and social exclusion in broad terms:

The term “poverty” in this context covers persons who find themselves in various situations ranging from severe poverty, which may have been perpetuated for several generations, to temporary situations entailing a risk of poverty. The term “social exclusion” refers to persons who find themselves in a position of extreme poverty through an accumulation of disadvantages, who suffer from degrading situations or events or from exclusion, whose rights to benefit may have expired a long time ago or for reasons of concurring circumstances. Social exclusion also strikes or risks to strike persons who without being poor are denied access to certain rights or services as a result of long periods of illness, the breakdown of their families, violence, release from prison or marginal behaviour as a result for example of alcoholism or drug addiction.¹³

As to the substance of the right, no guarantee of minimum resources is mentioned. The latter is covered by RESC article 13,

12. *Id.*

13. Council of Eur., European Social Charter, Explanatory Report, ¶ 114, <http://conventions.coe.int/Treaty/en/Reports/Html/163.htm> (last visited Feb. 2, 2014) [hereinafter RESC Explanatory Report].

which provides for a right to social assistance. Instead, states commit themselves to a comprehensive and coordinated approach to the alleviation of poverty and social exclusion. Measures included may or may not imply financial benefits. The Explanatory Report emphasizes that “States subscribing to this provision are encouraged to restrict financial benefits to those who cannot help themselves by their own means.”¹⁴

In the view of the European Committee of Social Rights (ECSR), which monitors the RESC, the obligation to adopt an overall and coordinated approach requires the elaboration of “an analytical framework, a set of priorities,” “measures to prevent and remove obstacles to accessing fundamental social rights,” and inclusive or participative monitoring mechanisms.¹⁵ An increase in the resources deployed is required as long as poverty and social exclusion persist. Where necessary, measures should “specifically target the most vulnerable groups,”¹⁶ one of which children are often considered to be. In sum, the response required of states consists of strengthening access to social rights, including by allocating adequate resources to the approach taken. Targeted measures are expected for the most vulnerable groups, such as children.

The Charter of Fundamental Rights of the European Union, a text binding the EU institutions, too refers explicitly to social exclusion and poverty.¹⁷ Article 34(3) on social security and social assistance, which is part of the chapter on solidarity, reads:

In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing

14. *Id.* ¶ 116.

15. International Movement ATD Fourth World v. France, Complaint no. 33/2006, Decision on the Merits, Eur. Comm. of Soc. Rights para. 164 (2007).

16. *Id.*, para. 166.

17. See generally Steve Peers, *The ‘Opt-out’ that Fell to Earth: The British and Polish Protocol Concerning the EU Charter of Fundamental Rights*, 12 HUM. RTS. L. REV. 375(2012). (describing binding nature of the EU Charter of Fundamental Rights); Charter of Fundamental Rights of the European Union, Dec. 18, 2000, 2000 O.J. (C 364) 1.

assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.¹⁸

Rather than recognizing a right to protection from poverty, the EU Charter acknowledges that in policies combating social exclusion and poverty a right to social and housing assistance is crucial to ensuring a decent existence for poor people. The drafters of the Charter have explained that this provision draws on articles 30 and 31 RESC.¹⁹

B. A Children's Rights-Based Approach to Poverty

Child poverty cannot be addressed adequately through separate rights, an integrated and holistic approach is needed.²⁰ Such a holistic analysis through the prism of children's rights is often coined "a children's rights-based approach" (CRBA), which is part of a more general human rights-based approach (HRBA). There is no single approach or understanding, but rather a multiplicity of human rights-based approaches to poverty. Common to all is their focus not only on the end result or outcome (which should be the realization of human rights), but also on the overall process. Central features of HRBA can be summarized in the acronym PANEL, i.e. participation, accountability, non-discrimination, empowerment and linkage to human rights. HRBA typically approaches poverty from a global perspective: both domestic and global issues are taken into account.

In what follows, I look into some landmark UN documents on poverty and human rights, issued by the OHCHR, the Special Rapporteur on Extreme Poverty and Human Rights, and two treaty monitoring bodies, i.e. the Committee on Economic,

18. *Id.*, art. 34, ¶ 3.

19. DRAFT CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION, TEXT OF THE EXPLANATIONS RELATING TO THE COMPLETE TEXT OF THE CHARTER AS SET OUT IN CHARTE 4487/00 CONVENT 50, 32 (2000), available at http://www.europarl.europa.eu/charter/pdf/04473_en.pdf.

20. van Bueren, *supra* note 8, at 684.

Social and Cultural Rights (CESCR) and the Committee on the Rights of the Child (CRC Committee). Three issues are of interest: what concept of poverty do they employ? How do they approach the intersection between human rights/children's rights and poverty? And which rights do they use as entry points to raise poverty issues?

1. . Concept of Poverty

In 2004 and 2006, the Office of the High Commissioner for Human Rights (OHCHR) issued two publications on a human rights-based approach to Poverty Reduction Strategies (PRS). The 2004 publication is a study of the conceptual framework for the integration of human rights into poverty reduction strategies.²¹ The 2006 publication contains principles and guidelines for a human rights approach to poverty reduction strategies.²²

In the 2004 publication, the concept of poverty is explicitly addressed, as it seeks to find a conceptual bridge between the discourses on poverty and human rights.²³ A definition of poverty is needed that refers to non-fulfillment of human rights without delinking it from the well-established connection with deprivation caused by economic constraints. That conceptual bridge is found in Sen's capability concept, i.e. a person's freedom or opportunities to achieve wellbeing. A poor person has very restricted opportunities to pursue his or her well-being (i.e. a low level or failure of basic capabilities), which has at least partly to do with an inadequate command over economic resources (income, publicly provided goods and services, etc.).

21. U.N. Office High Comm'r Human Rights ("OHCHR"), Human Rights and Poverty Reduction, A Conceptual Framework, U.N. Doc. HR/PUB/04/1 (2004) [hereinafter OHCHR Report], *available at* <http://www2.ohchr.org/english/issues/poverty/docs/povertyE.pdf>.

22. *See* U.N. Office High Comm'r Human Rights ("OHCHR"), Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies, U.N. Doc. HR/PUB/06/12 (2006), *available at* <http://www.ohchr.org/Documents/Publications/PovertyStrategiesen.pdf>.

23. Peers, *supra* note 17.

In the report, poverty as the absence or inadequate realization of certain basic freedoms (in the words of the capability approach) is believed to correspond to the non-fulfillment of rights to basic freedoms (in human rights terminology).²⁴

Magdalena Sepúlveda, the UN Special Rapporteur on Extreme Poverty and Human Rights, outlined the conceptual framework she works with in her first report. She aligns herself with a multidimensional working definition of extreme poverty. CESCR, which monitors the International Covenant on Economic, Social and Cultural Rights, has similarly argued that a “multidimensional understanding of poverty” corresponds with “numerous provisions of the Covenant.”²⁵

2. . *Human Rights-Poverty Nexus*

In the OHCHR’s conceptual framework publication of 2004, the nexus between human rights and poverty is explained in terms of constitutive, instrumental and constraint-based relevance. Constitutive relevance means that non-fulfillment of those human rights that correspond to basic capabilities in a given society, and in which inadequate command over economic resources plays a causal role, counts as poverty. The instrumental relevance of human rights for poverty lies in the ability of human rights to promote the cause of poverty reduction. Finally, its constraint-based relevance implies that human rights constrain the types of action that are permissible in poverty reduction policies and actions.²⁶

CESCR sought to clarify in a (non-binding) Statement on poverty and the Covenant in 2001 “the distinctive contribution of

24. OHCHR REPORT, *supra* note 21, at 5-10.

25. Comm. on Econ., Soc. & Cultural Rights, Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights, Statement Adopted by the Committee on Economic, Social and Cultural Rights on 4 May 2001, Comm. on Econ., Soc. & Cultural Rights, 25th Sess., Apr. 23-May 11, 2001, ¶ 7, U.N. Doc. E/C.12/2001/10 (May 10, 2001) [hereinafter CESCR Statement].

26. OHCHR Report, *supra* note 21, at 10-12.

international human rights to poverty eradication,” or in other words, “how human rights generally, and the Covenant in particular, can empower the poor and enhance anti-poverty strategies.”²⁷ CESCR zooms in on all key features of a rights-based approach, i.e. participation, accountability, non-discrimination, empowerment and linkage to human rights, which it considers to be “essential elements of anti-poverty strategies.”²⁸ Drawing on the World Bank’s *Voices of the Poor*, the Committee’s starting point is that the “common theme underlying poor people’s experiences is one of powerlessness.”²⁹ Given the “empowering potential of human rights[.]”³⁰ in its view, the “challenge is to connect the powerless with the empowering potential of human rights.”³¹ Human rights are believed to be able to contribute to equalizing the distribution and exercise of power, as they impose legal obligations on duty-holders. While the Committee attaches central importance to the right to an adequate standard of living,³² it emphasizes that other economic, social and cultural rights, as well as civil and political rights, are “indispensable to those living in poverty.”³³ In other words, all human rights are equally important in a context of poverty alleviation. Non-discrimination and equality norms are understood to require particular attention for vulnerable groups and individuals belonging to such groups.³⁴ Children growing up in poverty are believed to be often permanently disadvantaged.³⁵ The importance of de facto equality, and of the grounds of social origin and status as prohibited grounds of discrimination in

27. CESCR Statement, *supra* note 25, ¶ 3.

28. *Id.* at ¶ 9.

29. *Id.*, at ¶ 6. *Voices of the Poor*, (World Bank audio recordings collection), THE WORLD BANK, <http://go.worldbank.org/H1N8746X10> (2012). CESCR Statement, *supra* note 25, ¶ 6.

30. CESCR Statement, *supra* note 25, ¶ 6.

31. *Id.*

32. *Id.* at ¶ 11.

33. *Id.* at ¶¶ 8-10.

34. *Id.* at ¶ 11.

35. *Id.* at ¶ 5.

particular, has been echoed in literature.³⁶ The relevance of the right to participation of those who are affected (i.e. those who live in poverty) is mainly seen in light of its effectiveness. Substantively, while free and fair elections are believed to be a crucial component of the right, they do not suffice. Active and informed participation in anti-poverty policies or programs is needed.³⁷ Finally, the Committee calls for accessible, transparent and effective accountability mechanisms in order to be able to hold all duty-bearers to account.³⁸ In sum, in CESCR's view international human rights are believed to add important value to anti-poverty policies, which are said to be "more likely to be effective, sustainable, inclusive, equitable and meaningful to those in poverty if they are based upon international human rights."³⁹ At the same time the Committee accepts that "human rights are not a panacea," and gives rather a facilitative role to human rights: "they can help to equalise the distribution and exercise of power within [...] societies."⁴⁰ The Committee departs from the technical understanding that human rights obligations are only incumbent on states: it refers to duty-holders more generally, among them states and international organizations. No clarification is offered, however, as to who the other duty-holders are. Moreover, no legal accountability mechanisms seem to be required for duty-holders other than the state.⁴¹

3. . Children's Rights and Poverty

The 2006 OHCHR publication on guiding principles and guidelines pays some attention to children. Children are explicitly mentioned as victims⁴² and as belonging to groups in a

36. van Bueren, *supra* note 8, at 689-90.

37. CESCR Statement, *supra* note 25, ¶ 11.

38. *Id.* at ¶ 14.

39. *Id.* at ¶ 13.

40. *Id.* at ¶ 6 (emphasis added).

41. *Id.* at ¶ 14.

42. Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies, *supra* note 22, ¶¶ 109 and 127 (discussing child labor).

particularly vulnerable situation.⁴³ The prioritization and provision of tailor-made services for children are recommended in the areas of health care and education,⁴⁴ and the importance of education for escaping from poverty is acknowledged.⁴⁵

The Special Rapporteur on Extreme Poverty and Human Rights pays explicit attention to children. Analytically, she believes that children are differently affected by poverty. Normatively, she emphasizes the need to ensure the best interests of the child and participation in policy and implementation measures.⁴⁶ The final draft of the guiding principles on extreme poverty and human rights, prepared by the Special Rapporteur and adopted by the Human Rights Council in September 2012, equally pays specific attention to the rights of the child.⁴⁷ It argues that children's rights must be accorded priority and calls for "immediate action to combat childhood poverty." It stipulates that States must ensure that "all children have equal access to basic services," and that "[a]t a minimum, children are entitled to a package of basic social services that includes high-quality health care, adequate food, housing, safe drinking water and sanitation and primary education, so that they can grow to their full potential, free of disease, malnutrition, illiteracy and other deprivations."⁴⁸

"As poverty renders children vulnerable to exploitation, neglect and abuse," it is said that states must strengthen and

43. *Id.* ¶¶ 135, 203.

44. *Id.* ¶¶ 179(a), 191.

45. *Id.* ¶ 184.

46. Special Rapporteur on the Question of Human Rights and Extreme Poverty, *Rep. of the Independent Expert of the Question of Human Rights and Extreme Poverty*, ¶ 38, U.N. Doc. A/63/274, 63d Sess. (Aug. 13, 2008) (by Magdalena Carmona Sepúlveda).

47. *See* Special Rapporteur on Extreme Poverty and Human Rights, *Statement by Ms. Magdalena Sepúlveda Carmona, Special Rapporteur on Extreme Poverty and Human Rights at the 21st Session of the Human Rights Council*, U.N. Doc. A/HRC/21/39 (Sep. 12, 2012); Special Rapporteur on Extreme Poverty and Human Rights, *Statement by the Special Rapporteur on Extreme Poverty and Human Rights at the 67th session of the General Assembly*, U.N. Doc. A/67/278 (Oct. 30, 2012).

48. *Id.*

allocate the necessary resources to child protection strategies and programs, “with a particular focus on marginalized children such as street children, child soldiers, children with disabilities, victims of trafficking, child heads of households and children living in care institutions.”⁴⁹

Particular attention is paid to make sure that children “have their voices heard in decision-making processes relevant to their lives.”⁵⁰ This is, however, not developed in a child-specific way in her most recent report on the right to participation of people living in poverty.⁵¹

The CRC does not contain a specific reference to poverty, let alone a right to protection against poverty. Nor has the Committee on the Rights of the Child so far adopted a general comment in which it extensively addresses poverty. However, the CRC Committee considers that poor children belong to the group of children with heightened vulnerabilities.⁵² There is both recognition of the particular vulnerability to poverty and deprivation of some groups of children – such as young children, indigenous children, immigrant children and children living in single-parent households⁵³ – and of the particular risks to young

49. Guiding Principles on Extreme Poverty and Human Rights, *supra* note 22, ¶ 34.

50. *Id.*

51. Special Rapporteur on the Question of Human Rights and Extreme Poverty, Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona. (2013). In footnote 18 of the report, it is acknowledged that “[a]dditional measures would be needed to facilitate the participation of certain specific groups or individuals such as children.” *Id.* ¶ 36 n.18.

52. Comm. on the Rights of the Child, 40th Sess., Sept. 12-30, 2005, General Comment No. 7: Implementing child rights in early childhood, ¶ 24, U.N. Doc. CRC/C/GC/7/Rev.1 (Sept. 20, 2006) [hereinafter CRC Comment 7].

53. Comm. on the Rights of the Child, 50th Sess. Jan. 12-30, 2009, General Comment No. 11: Indigenous Children and their Rights under the Convention, Jan. 12-30, 2009, ¶¶ 34, 70, U.N. Doc. CRC/C/GC/11 (Feb. 12, 2009); CRC Comment 7, *supra* note 52, ¶¶ 2(f), 36; Comm. on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child-France, ¶ 78, U.N. Doc. CRC/C/FRA/CO/4 (June 11, 2009) [hereinafter France Concluding Observations]; Comm. on the Rights of the

children that result from poverty and social exclusion.⁵⁴ The conclusion drawn from the particular vulnerability of young children to and resulting from poverty is that “proper prevention and intervention strategies during early childhood” may “impact positively on young children’s current well-being and future prospects.”⁵⁵ In the allocation of the maximum available resources, there needs to be “a special focus on eradicating poverty and reducing inequalities.”⁵⁶ However, a focus on income measures is not sufficient; social, cultural, geographic and other such structural determinants of poverty reduction should be considered as well.⁵⁷

Rights in the CRC that may be mobilized in a children’s rights approach to poverty may be articles 2, 6, 26 and 27 in particular. Discrimination and exclusion are considered as being at the origin of poverty.⁵⁸ The right to life, survival and development, guaranteed in article 6, is unique in its formulation. The reference to survival emphasizes the positive obligations incumbent on states parties to prolong children’s lives. Survival is closely related to the healthy development of children and thereby introduces obligations of fulfillment.⁵⁹ The development

Child, Consideration of reports submitted by States parties under article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child-Sweden, ¶ 52, U.N. Doc. CRC/C/SWE/CO/4 (June 12, 2009).

54. CRC Comment 7, *supra* note 52, ¶ 8. Poverty has more recently been identified as a “family risk factor” for violence against children. Comm. on the Rights of the Child, General Comment No. 13: The right of the child to freedom from all forms of violence, ¶ 72, U.N. Doc. CRC/C/GC/13 (Apr. 18, 2011).

55. CRC Comment 7, *supra* note 52, ¶ 8.

56. France Concluding Observations, *supra* note 53, ¶ 19.

57. Comm. on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child-Italy, ¶ 58, U.N. Doc. CRC/C/ITA/CO/3-4 (Oct. 31, 2011) [hereinafter Italy Concluding Observations].

58. France Concluding Observations, *supra* note 53, ¶ 78.

59. MANFRED NOWAK, ARTICLE 6: THE RIGHT TO LIFE, SURVIVAL AND DEVELOPMENT 12-14 (André Alen et al. eds., 2005).

of children, in a holistic understanding,⁶⁰ is closely related to the concept of human development as advocated by the World Health Organization and UNICEF in the 1980s.⁶¹ Article 26 guarantees the right to benefit from social security, whereas article 27 provides for a right to a standard of living that is adequate for the child's mental, spiritual, moral and social development.⁶² The right to an adequate standard of living goes "beyond the purely material aspects of living such as food and housing," as the "standards, or the conditions under which the child lives, must be adequate for the child's physical, mental, spiritual, moral and social development."⁶³

Primary responsibility to secure the conditions of living necessary for the child's development lies with the parents, albeit within their abilities and financial capacities.⁶⁴ The corresponding obligation of the state is to ensure that parents fulfill their obligations towards their child (obligation to protect).⁶⁵ This attribution of primary responsibility to the parents builds on the Convention's "conception of the ideal type of setting for the upbringing of the child: a family with the will and the capability to care for the child during its many years, starting with the pregnancy and from birth to full maturity at the age of eighteen."⁶⁶ It goes without saying that parents' capacity to live up to this ideal-type conception is strongly dependent on their resources, material and non-material. If, despite their efforts, parents are unable to ensure proper conditions for the

60. Comm. on the Rights of the Child, General Comment No. 5: General Measures of Implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6), 34th Sess., Sept. 19 – Oct. 3, 2003, ¶ 12, U.N. Doc. CRC/GC/2003/5 (Nov. 27, 2003).

61. NOWAK, *supra* note 59, at 7, 14.

62. CRC, *supra* note 7, arts. 26(1), 27(1).

63. ASBJORN EIDE, ARTICLE 27: THE RIGHT TO AN ADEQUATE STANDARD OF LIVING 17 (André Alen et al. eds., 2006).

64. CRC, *supra* note 7, art. 27(2).

65. *Id.* at 2.

66. ASBJORN EIDE, ARTICLE 27: THE RIGHT TO AN ADEQUATE STANDARD OF LIVING 3 (André Alen, et al. eds., 2006).

development of the child, the state has an obligation to assist.⁶⁷ This subsidiary obligation placed on states in paragraph 3, to assist parents in the implementation of the right, is limited in different ways. First of all, it is subject to the resources generally available to the state. Resources should not be understood narrowly. The Committee has encouraged states to assess their available resources beyond financial measures and emphasized “the importance of systematically supporting parents and families which are among the most important ‘available resources’ for children.”⁶⁸ Secondly, the state is to intervene only in case of need, and its intervention seems to remain limited to material needs. Specifically, the state is to provide material assistance and support programs, particularly with regard to nutrition, clothing and housing (obligation to fulfill).⁶⁹ In its concluding observations, the Committee seems to go beyond this material assistance and urges State parties “to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, in particular for families in crisis situations due to poverty, absence of adequate housing or separation.”⁷⁰ Nevertheless, it addresses child poverty most explicitly under the heading of “standard of living,” which refers to material aspects only.⁷¹

A screening of concluding observations in the 2010-2013 period shows that Committee has become more concrete and specific in its recommendations on child poverty. Whereas it generally recommended states to provide support and to guarantee all children an adequate standard of living up to late 2011,⁷² it has given more detailed guidance since, including the

67. *Id.*

68. Comm. on the Rights of the Child, Day of General Discussion on “Resources for the Rights of the Child – Responsibility of States,” 46th Sess., Sept. 17-Oct. 5, 2007, ¶ 25 (Oct. 5, 2007), available at <http://www.ohchr.org/english/bodies/crc/docs/discussion/outline-2007.doc>.

69. EIDE, *supra* note 63, at 2.

70. France Concluding Observations, *supra* note 53, ¶ 60.

71. *Id.* ¶¶ 78-79.

72. Comm. on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention: Concluding

requirement to design specific policies and national plans to address child poverty;⁷³ to earmark specific budget lines for children⁷⁴ and strategic budget lines for vulnerable children;⁷⁵ to ensure social protection benefits to all children through child benefits⁷⁶ and through income support to families in poverty;⁷⁷ and to ensure equitable access to basic services such as adequate nutrition, housing, water and sanitation, as well as to social and health services and education for all families and children at risk.⁷⁸

Observations of the Committee on the Rights of the Child-Denmark, ¶ 5, U.N. Doc. CRC/C/DNK/CO/4 (Feb. 4, 2011).

73. Comm. on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child-Spain, ¶ 53, U.N. Doc. CRC/C/ESP/CO/3-4 (Sept. 29, 2010); Comm. on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child-Greece, ¶ 59, U.N. Doc. CRC/C/GRC/CO/2-3 (Aug. 13, 2012); Comm. on the Rights of the Child, Concluding observations on the combined third and fourth periodic report of Canada-adopted by the Committee at its sixty-first session (17 September-5 October 2012), ¶ 68, U.N. Doc. CRC/C/CAN/CO/3-4 (Dec. 6, 2012).

74. Comm. on the Rights of the Child, Concluding observations on the second periodic report of Andorra-adopted by the Committee at its sixty-first session (17 September-5 October 2012), ¶ 16, U.N. Doc. CRC/C/AND/CO/2 (Dec. 3, 2012).

75. Comm. on the Rights of the Child, Consideration of reports submitted by States parties under article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child-Belgium, ¶ 20, U.N. Doc. CRC/C/BEL/CO/3-4 (June 18, 2010) [hereinafter Belgium Concluding Observations].

76. Committee on the Rights of the Child, Concluding observations on the consolidated second to fourth periodic reports of Bosnia and Herzegovina-adopted by the Committee at its sixty-first session (17 September-5 October 2012), ¶ 61, U.N. Doc. CRC/C/BIH/CO/2-4 (Nov. 29, 2012) [hereinafter Bosnia Periodic Report].

77. Italy Concluding Observations, *supra* note 57.

78. Committee on the Rights of the Child, Concluding observations on the consolidated second to fourth periodic reports of Albania, ¶ 67, U.N. Doc. CRC/C/ALB/CO/2-4 (Dec. 7, 2012) [hereinafter Albania periodic report]; Bosnia Periodic Report, *supra* note 76.

C. Is Child Poverty a Violation of Children's Rights?

Technically speaking, poverty only constitutes a violation of children's rights if the state has failed to abide by its obligations of respect, protection or fulfillment. Moreover, whereas economic, social and cultural rights (ESC rights) "create a legitimate claim for children to benefit from an equal share in the state's resources,"⁷⁹ to establish a violation of ESC rights is cumbersome, given the weak general obligation of progressive realization only of economic, social and cultural rights. In other words, the realization of ESC rights of children is understood to be qualified by resource availability. Article 4 CRC differentiates the general obligation for the realization of the rights, limiting it in the case of economic, social and cultural rights (ESC rights) to "the maximum extent of their available resources and, where needed, within the framework of international cooperation."⁸⁰ This relative obligation with regard to the ESC rights of children reminds us of the long-standing discussion on the legal nature of ESC rights. More often than not, they are considered second-class rights in jurisprudence and politics. The acceptance that the realization of economic, social and cultural rights can be achieved only progressively and subject to the availability of resources bears out the recognition of a time dimension and a need for priorities in light of resource constraints.⁸¹ However, as CESCR has clarified, this recognition does not grant states *carte blanche*; they must begin immediately to take steps in order to realize ESC rights as expeditiously as

79. van Bueren, *supra* note 8, at 680-81.

80. CRC, *supra* note 7, art. 4; see Peter Cantwell, *The Origins, Development and Significance of the United Nations Convention on the Rights of the Child*, in *THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: A GUIDE TO THE "TRAVAUX PREPARATOIRES"* 27 (Sharon Detrick et al. eds. 1992); Philip Alston, *The Best Interests Principle: Towards a Reconciliation of Culture and Human Rights*, 8 INT'L J.L. & FAM. 1, 7 (1994).

81. Committee on the Rights of the Child, General Comment No. 5: General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42, and 44, para. 6), ¶ 62 U.N. Doc. CRC/GC/2003/5 (Nov. 27, 2003).

possible. In addition, maximum use has to be made of available resources.⁸² States also need to adopt a strategy and plan of action to realize these rights. Prioritization too is subjected to process and substance conditions. The process in which prioritization is decided needs to be participatory and transparent: all stakeholders, including the poor, must be involved so that all segments of society, especially the poor, can express their value judgments regarding priorities. Parties must always comply with core obligations (i.e. obligations pertaining to the minimum essential levels of the rights). Moreover, there is a strong presumption that retrogressive measures are not permissible.⁸³

The recent wave of austerity measures adopted in response to the financial and economic crisis makes clear once more that conceptual clarity about progressive realization, permissible limitations and retrogressive measures, and minimum core obligations is of high practical relevance. A first question is how to conceptualize austerity measures. In literature, it has been suggested to deal with them from the perspective of progressive realization rather than that of limitations.⁸⁴ CESCR implicitly seems to take a similar approach, as it offers hardly guidance on limitations, but has clarified rather extensively how to assess retrogressive measures. Most recently, in an Open Letter of 16 May 2012, CESCR acknowledged that adjustments may be

82. *See generally* Sigrun Skogly, The Requirement of Using the 'Maximum of Available Resources' for Human Rights Realisation: A Question of Quality as Well as Quantity?, 12 HUM. RTS. L. REV. 393 (2012) (discussing how to best implement economic, social, and cultural rights).

83. *See* OHCHR Report, *supra* note 21, at 22-27; *see, e.g.*, Comm. on Econ., Soc., & Cultural Rights, Comment No. 3: The nature of States parties obligations (Art. 2, par. 1), ¶ 9, U.N. Doc. E/1991/23 (Dec. 14, 1990); Comm. on Econ., Soc., & Cultural Rights, Comment No. 15: The right to water (Arts. 11 and 12 of the Covenant), ¶ 19, U.N. Doc. E/C.12/2002/11 (Jan. 20, 2003).

84. MARKUS KRAJEWSKI, HUMAN RIGHTS AND AUSTERITY PROGRAMMES 15 (Jan. 11, 2013), *available at* http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2199625_code1056790.pdf?abstractid=2199625&mirid=1.

needed due to economic and financial crises, but outlined four requirements:

1. the policy is temporary covering only the period of crisis;
2. the policy is necessary and proportionate (adoption of any other policy, or failure to act, would be more detrimental to ESC rights);
3. the policy is not discriminatory and comprises all possible measures to support social transfers to mitigate inequalities and to ensure that the rights of the disadvantaged and marginalised individuals and groups are not disproportionately affected;
4. the policy identifies the minimum core content of rights, or a social protection floor, and ensures the protection of this core content at all times.⁸⁵

The requirement of a minimum core content has been incorporated explicitly in concluding observations, in particular with regard to disadvantaged and marginalized groups, to which both the poor and children are counted, hence poor children certainly belong to that category.⁸⁶

The CRC Committee has not yet taken an explicit position on austerity measures and retrogressive measures. Indirectly, it has introduced a budgetary minimum floor by asking Belgium to “[d]efine strategic budgetary lines for disadvantaged or children in particularly vulnerable situations and for those situations that may require affirmative social measures and ensure that those budgetary lines are protected even in situations of economic

85. Comm. Econ., Soc. & Cultural Rights, Letter dated May 16, 2012 from the Chairperson to States Parties, U.N. Doc. CESCR/48th/SP/MAB/SW (May 16, 2012), available at <http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf>.

86. Comm. on Econ., Soc. & Cultural Rights, Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: Concluding observations of the Committee on Economic, Social and Cultural Rights-Spain, U.N. Doc. E/C.12/ESP/CO/5 (2012), ¶ 8.

crisis, or other emergencies.”⁸⁷ In van Bueren’s reading, intention, a significant number of children being hit and deprivation of essential goods are key factors in assessing the permissibility of retrogressive measures.⁸⁸

In sum, legally, child poverty can only be qualified as a children’s rights violation to the extent that acts or omissions can be attributed to a state. Moreover, the weak obligation of progressive realization with regard to ESC rights may make child poverty justifiable with reference to limited availability of resources. Nonetheless, retrogressive measures require careful justification by the state and should not affect the minimum core of children’s rights.

D. Challenges for a Children’s Rights Approach to Child Poverty

In addition to the legal technical issues mentioned above, a children’s rights-based approach to poverty faces some substantive challenges. Some have to do with the holistic approach that is required and are, therefore, not necessarily specific to children’s rights.

1. *A Holistic Approach*

Whereas van Bueren’s submission that “[t]he CRC provides an ideology for state intervention”⁸⁹ may be an exaggeration, it is true that the CRC requires a state to take firm action to address child poverty, and to do so in a holistic way. Politically sensitive questions may arise as to who has the legitimacy, the executive or the judiciary, to assess whether maximum use has been made of available resources. Moreover, a holistic approach may be “daunting to genuinely resource-stretched governments.”⁹⁰ But beyond the implementation challenges, a holistic approach may

87. Belgium Concluding Observations, *supra* note 75, ¶ 20.

88. van Bueren, *supra* note 8, at 693.

89. *Id.* at 692.

90. *Id.* at 703.

be inherently difficult due to the individualistic approach that children's rights law tends to take: rights belong to individuals.⁹¹ The individualistic bias of children's rights law, in combination with the lack of a comprehensive right tackling poverty, may lead to a fragmented approach. Moreover, root causes and structural causes may remain unaddressed. Riedel, for a long time one of the prominent members of the Committee on Economic, Social and Cultural Rights, admitted that "the Committee deals with the issue of poverty through looking at its adverse effects on the realization of specific rights covered by the ICESCR and the vulnerability of specific groups."⁹²

2. *Children Versus Adults*

A second challenge is the tensions that may arise between the rights of children and adults, between the human rights of children and those of their parents. At one level, the question is whether it makes sense to discuss child poverty as opposed to adult poverty, or to single out the poverty of children without addressing the poverty of the family they live in. Given the specific damage to and vulnerability of children living in poverty, as well as the long-term effects,⁹³ it does make sense to address child poverty in its own right. Just like gender dimensions, age dimensions may tend to be ignored when taking the family as unit of analysis and intervention. On the other hand, child poverty cannot be addressed appropriately if not also

91. See Wouter Vandenhoele, *The Limits of Human Rights Law in Human Development*, in *FACING THE LIMITS OF THE LAW*, 355 (Erik Claes, et al. eds., 2009) (describing limitations of an individualistic approach).

92. Comm. Econ., Soc. & Cultural Rights, Rep. of the Open-ended Working Group to Consider Options Regarding the Elaboration of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on its First Session (Geneva, 23 Feb.-5 Mar. 2004); ¶ 45, U.N. Doc. E/CN.4/2004/44 (Mar. 15, 2004).

93. See, e.g., Council of Eur., Declaration on the Occasion of the International Day for the Eradication of Poverty: Acting together to eradicate extreme poverty in Europe (Oct. 17, 2012) (emphasis added) [hereinafter Council of Europe Declaration].

the poverty of the family or community the child lives in, is tackled.⁹⁴ A comprehensive approach in which child poverty is addressed at the same time separately and contextualized seems therefore preferable.⁹⁵

At another level, parents living in poverty often experience children's rights as being played out against them, in particular in order to justify placement into care. Children from families suffering extreme poverty and deprivation are placed in institutional care, rather than that families at risk are supported through better services and benefits. The CRC Committee expressed concern about this in its concluding observations. It noted that children were placed in alternative care as a result of low parental income and that new draft legislation on the national adoption of children in a situation of parental neglect involved a definite risk of separating children, especially those from low income families and families living in poverty, from their family environment.⁹⁶

Whereas it is true that children's rights are often mobilized against poor parents, particularly to justify placement into care, neither the CRC nor the Committee favor such an instrumentalization of children's rights. In case of abuse or neglect, the state has an obligation to intervene in order to offer protection and care. However, one of the reasons for allocating primary responsibility to the parents in article 27 CRC for an adequate standard of living (and for upbringing and development more generally, compare also art. 18 CRC) was precisely to protect parents against excessive state intervention.⁹⁷ Moreover, separation from parents is only permissible in the child's best

94. See EUROCHILD, POLICY POSITION: CHILD POVERTY - FAMILY POVERTY: ARE THEY ONE AND THE SAME? A RIGHTS-BASED APPROACH TO FIGHTING CHILD POVERTY 1 (Oct. 2011), available at http://www.eurochild.org/fileadmin/ThematicPriorities/FPS/Eurochild/Position_paper_ch_pov_vs_family_pov_designed_FINAL.pdf.

95. Van Bueren, *supra* note 8, at 682.

96. France Concluding Observations, *supra* note 53, ¶¶ 63, 65.

97. SHARON DETRICK, THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: A GUIDE TO THE "TRAVAUX PRÉPARATOIRES" 459 (Martinus Nijhoff, 1992).

interests, as set forth in article 9,⁹⁸ as it is accepted that the family usually provides the best setting for a child's development.⁹⁹ Similarly, it is now established case-law of the European Court of Human Rights that in light of the right (of parents) to family life, children can only be removed from their family as a measure of last resort, and for the shortest possible period. The Court has held explicitly that financial difficulties cannot justify placement of children, as these can be overcome by financial and social assistance.¹⁰⁰ Although the Court has stopped from ordering the state to provide a family with financial resources in order to promote family unity, the CRC Committee has unequivocally urged states to increase financial allocations to families in need instead of placing their children in institutions.¹⁰¹ A concept often mobilized in this context is the best interests of the child. In its 2013 general comment on the best interests of the child, the Committee confirmed that financial poverty alone cannot justify placement into care:

The Guidelines for the Alternative Care of Children [footnote omitted] aims to ensure that children are not placed in alternative care unnecessarily; and that where alternative care is provided, it is delivered under appropriate conditions responding to the rights and best interests of the child. In particular, "financial and material poverty, or conditions directly and uniquely imputable to such poverty, should never be the only justification for the removal of a child from parental care [...] but should be seen as a signal for the need to provide appropriate support to the family."¹⁰²

98. CRC, *supra* note 7, art. 9.

99. See CRC, *supra* note 7, art. 5; CRC Comment 7, *supra* note 24, ¶ 15.

100. Saviny v. Ukraine, Eur. Ct. H.R. ¶ 50, <http://hudoc.echr.coe.int/web/services/content/pdf/001-90360?TID=qazkfuubfo> (2008).

101. Albania Periodic Report, *supra* note 78, ¶ 59.

102. Comm. Rights of the Child, General Comment No. 14: on the right of the child to have his her best interests taken as a primary consideration (art. 3, para. 1), ¶ 62 (May 29, 2013).

3. *Image of the Child*

Children's rights strike a sympathetic chord. The broadly shared assumption that children are in a very vulnerable situation makes them the prototype of "deserving poor," i.e. those that deserve to be assisted and protected. Children's rights can provide an important lever for combating the poverty of children and possibly also that of their parents, and even more broadly for emancipation and social struggle. However, that may come at the price of associating children's rights mainly with vulnerability and protection, and much less with agency and participation. A similar tendency to overemphasize vulnerability results from considering poverty to create a specific vulnerability amongst children. A positive consequence of this is that because of that heightened vulnerability, they are believed to be in need of special attention and care. However, it may lead to downplaying poor children's agency and participation rights.

4. *Which Poverty?*

The multidimensional nature of poverty has been recognized in human rights-based approaches to poverty. Nevertheless, financial or material poverty remains central in e.g. case-law or recommendations for remedial action, as illustrated by the emphasis on strengthening access to social rights, including by allocating adequate resources.

Sometimes, a distinction is made between poverty and extreme poverty. The latter seems to be more attractive politically (see, e.g. the mandate of the UN Special Rapporteur on Extreme Poverty and Human Rights, or a recent Council of Europe Declaration)¹⁰³ and is possibly informed by pragmatism, but a policy that merely seeks to alleviate extreme poverty is rather minimalistic in scope, and therefore hard to defend from a children's rights perspective.

103. Council of Europe Declaration, *supra* note 93.

5. *Empowerment or Disenfranchisement?*

A rights-based approach to poverty is believed to have empowering potential, in particular because of the shift from charity to rights, with the concomitant principles of participation, accountability, non-discrimination, empowerment and linkage with human rights. Clearly, by invoking a legally binding normative framework, ideologically loaded discussions can be evaded. Inserting the child rights-based approach principles into policies and programs also narrows policy discretion, in that a minimum threshold is established; process requirements such as participation and prioritization of the poor, and of poor children in particular, are introduced; and the best interests of the child are taken into account. As Morrow and Perry argued on the basis of case studies that they undertook in *Young Lives*, a longitudinal study on the changing nature of childhood poverty in the South, “there is a need for rights to engage with poverty.”¹⁰⁴

It is not clear, however, whether and to what extent the underlying assumption in children’s rights law of the autonomy of the individual involves a risk of individuating and decontextualizing poverty. Moreover, the theoretical advantages of a children’s rights-based approach do not materialize automatically into practice, for a couple of reasons. First of all, in a children’s rights-based approach the state’s responsibility with regard to poverty is a subsidiary one, which is moreover centered on material conditions and access to social services. One may wonder whether this approach corresponds to current understandings of the nature of poverty. Secondly, with regard to empowerment, the inherent limitations of child participation have been pointed out, at least if the existence of (unequal) power relations and their impact are ignored.¹⁰⁵ Do children’s

104. Virginia Morrow & Kirrily Pells, *Integrating Children’s Human Rights and Child Poverty Debates: Examples from Young Lives in Ethiopia and India*, 46 Soc. 906, 915 (2012).

105. See Jason Hart, *Children’s Participation and International Development: Attending to the Political*, 16 INT’L J. CHILD. R. 407, 407 (2008).

rights not presuppose rather than “create” empowered, participating children? Do we not place too much responsibility on those who may not have the power to change their circumstances?¹⁰⁶ Does poverty impinge on children’s ability not only to resist power, but also to change power relations and the concomitant social exclusion?¹⁰⁷

Morrow and Pells fully acknowledge that “participation takes place within a framework of power dynamics” and that “participatory approaches place a burden on children to reflect upon their situations and propose solutions for what are essentially problems caused by politics and economics.”¹⁰⁸ Hence the need for a broad understanding “of how rights can, and do, function,”¹⁰⁹ and a plea to also take a sociological approach to poverty and children’s rights, in which “intersections between structures and processes”¹¹⁰ are identified. Understanding rights as structures allows tracking structural causes of poverty, and “guards against single rights approaches.”¹¹¹ Understanding rights as relationships acknowledges that children “are situated in webs of relationships”¹¹² rather than autonomous and separated individuals. Rights as a process “involve a focus on participation.”¹¹³

106. Rachel Hinton, *Children's Participation and Good Governance: Limitations of the Theoretical Literature*, 16 INT'L J. CHILD. R. 285, 287.

107. See Wouter Vandenhoe, *A children's rights perspective on poverty*, in WHY CARE? CHILDREN'S RIGHTS AND CHILD POVERTY 29-30 (Wouter Vandenhoe, et al. eds., 2010) (discussing in-depth power and empowerment).

108. Morrow & Pells, *supra* note 104, at 916.

109. *Id.* at 915.

110. *Id.*

111. *Id.* at 916.

112. *Id.*

113. *Id.*

CONCLUSION

From a legal perspective, child poverty and children's rights are indeed an uneasy fit, as we suggest in the title of this article. Poverty is multidimensional, and therefore affects all areas of life, and many different rights of children. This sits uneasily with the individualized and single issue approach that children's rights tend to take. A rights-based approach to poverty may well be the best response that children's rights law can offer to address child poverty. In an obligations approach, measures are clarified that a state is under a duty to take when parents are unable to secure for their children an adequate standard of living. The general obligation of progressive realization of economic, social and cultural rights gives states considerable policy space, without rendering their positive obligations meaningless. A violations approach makes clear that there are red lines that should not be crossed, not even in times of economic or financial crisis.

Beyond questions of legal qualification and framing, challenges remain on how to take a holistic approach to child poverty; not to pitch children against adults; not to depict children exclusively in terms of vulnerability; not to artificially single out child poverty or to focus merely on extreme poverty; and to realize the empowering potential of a children's rights-based approach. The latter requires a sociological approach, in which structural and relational dimensions receive appropriate attention.

Children's rights law, as a matter of principle, cannot ignore child poverty, for poverty profoundly affects human dignity. Vice versa, policies that seek to address child poverty cannot ignore the normative guidance that children's rights (law) offer. But there is no easy symbiosis between children's rights law and child poverty policies. This conclusion does not render children's rights law irrelevant, but it invites ongoing reflection on its potential and limits, opportunities and pitfalls. An uneasy fit between children's rights and child poverty is inevitable, but also necessary.