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„Public Expenditure Contraction in Child Budgeting
and its Effects on Child Poverty and Children’s
Rights“

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“There can be no keener revelation of a society’s soul than the way in which it treats its children.”

Nelson Mandela

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Introduction

Introduction

In the wave of the economic crisis fiscal austerity began to sweep across the countries and the initial government responses to the crises were characterised by unprecedented monetary but also fiscal policies aimed at guaranteeing and securing social protection while stimulating economic demand to prevent a full-blown depression to spread globally.¹

Since 2010 though, governments have focused on austerity policies as emergency measures, that sometimes side step regular channels of participation and accepted democratic checks and balances. Many of the austerity measures that may range from expenditure contraction, regressive tax hikes, and reduced labour protection and pension reforms have exacerbated the already severe human consequences of the crisis and affected the whole spectrum of human rights, the rights to decent work, an adequate standard of living and social security to access to justice, freedom of expression and the rights to participation, transparency and accountability.²

These measures were undertaken despite the fact that certain vulnerable populations are especially in need of public attention and assistance during times of economic downturn. Children display one of such a vulnerable group. This thesis will take a look at the interplay of fiscal cuts in child budgeting and child poverty and will challenge whether such measures are compatible with the states responsibility to respect, fulfil and protect human rights and in this context specifically children's economic, social and cultural rights. The UN Convention on the Rights of the Child (CRC) as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR) will constitute the judicial foundation for any such questions, which clearly states the obligation to invest in eradicating all child deprivations.³

¹ Council of Europe, Commissioner for Human Rights (2013), p. 7.

² Ibidem.

³ Ortiz, I., Chai, J., Cummins, M. (2011), pp. 1-12.

The thesis will theoretically build the foundation to explain the effects of fiscal austerity on child poverty and therewith children's rights, the role of states to protect such rights and a possible violation of state obligations caused by such measures on these. To understand theory in practice, the thesis will further analyse theory in practice with the help of an example of two different countries and their potential adverse impacts on children caused by the most common adjustment measures.

Research Question

What is the possible impact of child budgeting contraction on child poverty and hence on children's rights and do governments breach their obligation to protect children's rights with such austerity measures undertaken?

Methodology

The primary leadoff theoretical part will be based on a pure literature and legal analysis to communicate an overall understanding of the inter-related subject matter of child poverty, budgeting measures and children's rights and the obligation of states to protect these rights. In the case study part, working papers and a simulation model will be consulted to produce a thorough analysis of the situation in two different countries to explain the foregoing theory in practice. The methodology will thus constitute of a composition of literature monograph and empiricism.

The Four Levels of Analysis

In a start, it is necessary to define the four major levels of analysis for this thesis:

- Child poverty,
- Child Budgeting,
- Children's Rights,
- The Obligation of States.

Those four interrelated areas have to be defined, understood and contained to understand any further relations between them.

This theoretical section will depict the major theoretical analysis of how children's rights, child poverty and contractions in child budgeting connect to and affect each other. For that reason, the research question is recalled:

What is the possible impact of child budgeting contraction on child poverty and hence on children's rights and do governments breach their obligation to protect children's rights with such austerity measures undertaken?

To answer this question, the separate levels have to be examined systematically and sequentially.

- I. Function of this first part is to understand the basics of child poverty, its causes, and the effects public expenditure can have on child poverty in a very general matter.
- II. Child budgeting illustrates one of the many tools a state might use in order to tackle and respond to child poverty or at least it depicts a tool that discloses any fiscal plans a government may have to counter child poverty. Thus, the effects and necessity of government spending and budgeting on child poverty are explained, assuming a relation where a reduction in the state's expenditure in child programmes lead to an instant or future increase in child poverty. If so, the state is clearly responsible for any decisions it takes that have an effect on child poverty and are a major player to impact on the situation of child well-being.
- III. While in none of the human rights documents the wording specifically mentions a right to be free from poverty in this general context, many other rights may be violated through poverty and the right to an adequate standard of living itself can be argued conversely to mean

to be free from poverty. Nevertheless, we have to take a step under which we try to figure out what binding children's rights exist that may be violated in a state of poverty. A debate on why child poverty constitutes a human rights and more specifically a children's rights violation and which precise rights might be disordered will be given in this section in order to understand a state's responsibility to fight poverty. Primarily, in this thesis we will focus on Economic, Social and Cultural Rights (ESCR) – the reasons for which will be explained in more detail in this section.

- IV. In order to evaluate the outcomes of budgetary changes on child poverty and therewith children's rights, it is necessary to engraft another chapter that will explain the underlying indicators that define child poverty and how child poverty based on such indicators can be measured more concretely. Only if child poverty and the implementation of children's rights are measurable, the outcomes of state policies can be understood, measured and evaluated on a comparable base. As will be illustrated, measuring child poverty or even children's rights is quite complicated and so is the assessment of state action and the answer to whether a state adheres to its obligation to respect children's rights.

- V. After this, by taking a look at the rights concerned and the underlying judicial framework such as the CRC and the ICESCR and certain poverty indicators of children's rights, the state's responsibility that is an inseparable part of the realization of rights relating to poverty will be discussed. This chapter will provide a debate on the difficulty of assessment of fulfilment of state obligation relating to economic, social and cultural rights with special focus on the obligation of progressive realization and non-retrogressive measures when

implementing those rights. The following figure tries to clarify the sequence of the upcoming theoretical elaboration on the topic.

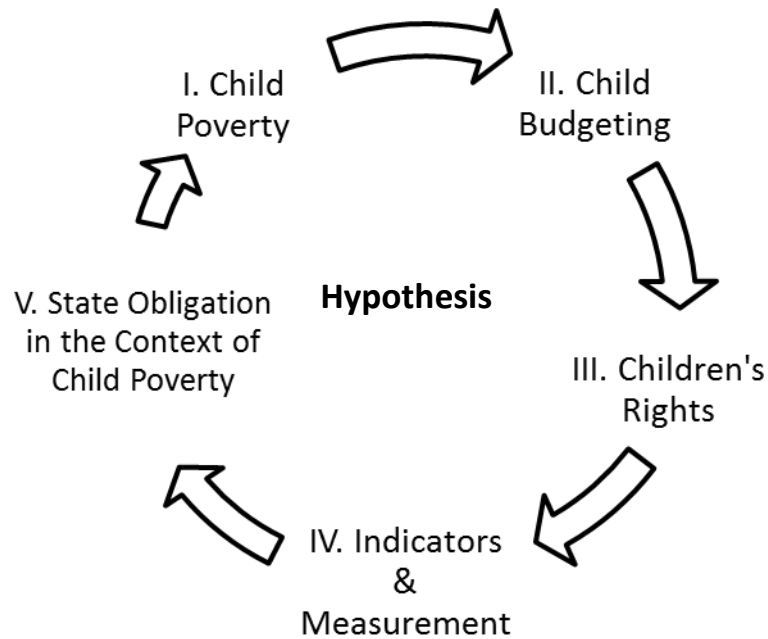


Figure 1: Sequence of Analysis

Finally, the hypothesis can be stated as follows:

Child poverty itself can be defined as a violation of children's rights and thus a state violates its responsibility to children's rights by aggravating child poverty through austerity measures and a reduction in government spending for children.

Child Poverty

Child Poverty

What is Poverty?

To take off from the very beginning, it is necessary to define poverty in a general way. Demanding though is that poverty is a phenomenon of multidimensional character, therefore often hard to define and measurable in a number of different ways which makes it even more important to properly understand the term poverty and more specifically child poverty.

As stated by the United Nations in the *Copenhagen Declaration*: poverty has a number of different manifestations, including lack of income and productive resources to ensure sustainable livelihoods; hunger and malnutrition; ill-health; limited or a lack of access to education and other basic services; increased morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments and social discrimination and exclusion.⁴

As this predication suggests, poverty is not a problem that is simply related to money and economic issues, but about a wide range of dimensions of deprivation and exclusion. Since there is much debate and disagreement amongst academics and policy-makers about how to define and to measure poverty, there is not one correct, scientific definition, but rather a contested concept.⁵

What is Child Poverty?

Whereas adults may fall into poverty temporarily, poverty during childhood can lead to a lifetime spent in poverty when access to education or health services is not possible. As such, child poverty is likely to be passed on to next generations, aggravating and exacerbating inequalities in society. Because of the far reaching term and definition of child poverty, it is clear that governments

⁴ UN (1995a), *Copenhagen Declaration*, p. 57.

⁵ Alcock (2006), p. 4.

and state authorities have to make a commitment to reduce, recognize and respond to child poverty as a first priority. Alongside this commitment also responsibility for creating improved approaches for the measurement of child poverty and building up the necessary expertise lies with governments.⁶

Several organizations have started to base their definition of child poverty on a human-rights based approach. As for identifying the poor for measurement and analysis, the human-rights based approach takes constitutive rights into scrutiny, which are those rights without which a person would be considered of being poor. This list of rights may differ from country to country, but the Office of the High Commissioner on Human Rights (OHCHR) after empirical observation has developed a widely accepted common set of rights that can be applied to most countries⁷:

- being adequately nourished;
- being able to avoid preventable morbidity and premature mortality;
- being adequately sheltered;
- having basic education;
- being able to appear in public without shame;
- being able to earn a livelihood; and
- taking part in the life of a community.

What is implicit in this definition of poverty is that governments have the legal responsibility to fulfil these rights and therefore act as the primary duty bearers. UNICEF based on the above human rights approach and the Convention on the Rights of the Child, defines child poverty as the deprivation of a selection of material and social supports and services that are fundamental to ensure the general well-being of children and gives the following definition presented in *The State of the World's Children*:

⁶ UNICEF (2014), www.unicef.org/socialpolicy/index_childpoverty, 15 May 2014.

⁷ Minujin, Delamonica, Davidziuk, Gonzales (2006), p. 6.

*Children living in poverty experience deprivation of the material, spiritual, and emotional resources needed to survive, develop and thrive, leaving them unable to enjoy their rights, achieve their full potential or participate as full and equal members of society.*⁸

A proper definition should thus go beyond the simple one-dimensional monetary approach to measure child poverty. And what is important in defining child poverty, is that it sets the framework for potential poverty reduction strategies and further on the development of indicators for tracking the success of certain measures since a lack of visibility, as will also be discussed in a following section of this thesis, certainly does have negative implications for anti-child-poverty strategies.⁹

The United Nations in general use this multidimensional approach to child poverty and child wellbeing and therewith also define that children not only have a right to basic education and health, but also to food, clean drinking water, sanitation, shelter and any other vital necessities for their families, including such relating to basic livelihoods. As will also be pointed out in the next chapters, in this thesis major focal point will be on educational, health and food deprivations, as well as the general adequate standard of living and the right to social security, since most national plans and policy discussions surround around the principles of primary education, basic health and poor households.¹⁰

While child poverty may be quite diverse in its definition, the wide-reaching diffusion into all kinds of areas of a child's life is obvious. But what actually causes child poverty or respectively why is child poverty higher in some countries compared to others? Certainly, this is not an easily answered question, since the phenomenon of poverty is extraordinarily complex, but to understand the background of child poverty, we should take at least a very shallow look at causes or rationales for it.

⁸ Ibidem.

⁹ Ibidem, pp. 16-19.

¹⁰ Ortiz et al. (2011), p. 12.

Rationales of Child Poverty

To look at the rationales of child poverty, two different approaches have been suggested. The *structural approach* focuses on the importance of social circumstances and social forces in determining the life-course, life chances, social status and expected role models of children. This also includes any forms of dependency on adults, as children themselves are typically not able and not even allowed to work for their own income and thus provide for their own generation. Among such circumstances fall economic growth, labour market opportunities, educational provision, social security systems and any other structural features a society provides. In other words, our social relations are created and are recreated. In order to change those circumstances the structural frameworks must be changed by policy action.

The second *agency approach*, completely opposite, emphasises that we are all ultimately the authors of our own fortunes or misfortunes and all individuals make choices that shape their life. Simplified, individuals must take responsibility for managing their own living standards and social relations.

While the second approach may seem quite harsh or even cold-hearted, probably, both these converse approaches have some theoretical truth and as most social scientists recognise, poverty can be a product of both, structure and agency.¹¹ In this thesis, we will not try to answer how individuals can shape their future based on decisions they make, but we will take causes based on the structural approach into account; thus basically extraneous cause through state and government on child poverty.

Since poverty out of question is affected by such social forces, state policies have been developed over time to combat or reduce poverty. Now that if despite such policies poverty persists, explanation should not be sought in the

¹¹ Alcock (2006), p. 35.

failings of those in poverty, but in the failings of those policies meant to combat poverty.¹² Arguably though, no matter how much power a government's politicians might have, they cannot control all aspects of the societies, because many of the social events are a product of economic forces or may even relate back to the agency approach of poverty.

This is obviously the case with the on-going economic recession where poverty is associated with high levels of unemployment, lower wages and most importantly the pressure to cut public spending on benefits, leading to lower state support for children for instance. Policy responses that merely focus on the consequences of an economic recession are likely to fail, but policies seeking to prevent these consequences by reducing inflation and promoting employment indeed do succeed, as much research has shown.¹³

Nevertheless, the situation we find ourselves in now is one where the crisis has already hit, prevention measures are behind time and nations find themselves in the middle of an economic recession, where reactive measures become just as necessary. Even if the socio-economic situation affects poverty, it is far from immutable or impossible to influence as the evidence of the different levels of poverty in similar nations reveals. This reform and restructuring that is taking place is what happens when politicians introduce new policies or adapt their public expenditure into specific programmes to react to the current crisis.¹⁴

Coming back to the question of causes of child poverty, when seeking an answer, we inevitably must consider causes of the poverty of parents as children are simply depended on adults and the financial and general support they provide. When the definition of poverty is applied for children, it is often based on the family's income. Given that income is generally pooled within families, often the income of the whole family is considered. Importantly, some

¹² Ibidem, p. 39.

¹³ Ibidem, pp. 40-42.

¹⁴ Ibidem.

of the children in poor families might be protected by outside effects of poverty where the parents take less than their 'share', but the reverse might also be true in households, where children are deprived in families that are by no means poor.¹⁵ These are the reasons why many of state policies and welfare programmes tackle families and households as a whole.

What is further important in understanding the causes of child poverty is that it is, not only caused by the situation of parents, but also affects the future situation of a child once it has grown up to being an adult or parent itself, creating the same financial struggle for the next generation and a vicious cycle that may be hard to break.

"Children who grew up in poverty in the 1970s consistently did worse at school, were six times less likely to enter higher education, one and a half times more likely to be unemployed and earned 10% less during their lifetimes than those who did not experience poverty."¹⁶

As this quote and research reveal, disadvantages a person faced during childhood display a persistent and negative association with the subsequent future economic success of this person. Naturally, an important transmission mechanism underpinning this link is educational attainment, which is enormously inferior for those we classify as disadvantaged.

Above this, factors such as poor school attendance, and the mere factor of growing up in a family in financial distress matter in shaping an adult's labour market performance later in life. Additionally, and here we come back to the vicious cycle of poverty, children of parents who themselves grew up in a socially disadvantaged situation during their childhood have lower early-age

¹⁵ Piachaud, Sutherland (2002), pp. 141-142.

¹⁶ see: Paxton, Dixon (2004), p. 9.

cognitive abilities which suggests this cross-generational link that easily spills over to affect the economic fortunes of the concerned.¹⁷

General Representations and Perceptions of Child Poverty

Over the last century the situation of children in poverty has clearly changed, when the severe poverty at the turn of the 20th century was replaced by a reduction during the middle part of the century, only to be followed by an extreme and catastrophic rise during the 1980s and 90s. As subjects in their own right, children have remained largely absent from poverty discourse and public policies and so have their needs often been ignored or obscured. Numerously, it is revealed as an adjunct to adult poverty or an explanatory factor for adult poverty, rather than being seen as a serious issue on its own. Thus, public policies have been almost overwhelmingly preoccupied with an interest in children as future citizens and workers.

As mentioned in the above section, some of the key factors that affect children's risks of experiencing poverty reveal how family structure, employment status and parental health are all influential. All these are not necessarily discrete categories of risk but rather economic, social and cultural factors, interacting with the economic, social and political environment of their time.

Responding to this, political agendas and programmes involve a radical overhaul of the welfare system. Nevertheless, despite such initiatives to support children there will remain a substantial number of children in poverty. For that reason a new approach and welcoming aspect of the current government's policies has been their intention to develop a general larger understanding of children's lives and an increased involvement of children in policy processes. While the way is still long, it becomes possible to envisage a response to child

¹⁷ Gregg, Mauchin (2001), pp. 146-147.

poverty that is more complex and diverse and more responsive to the concerns and needs identified by low-income children themselves.¹⁸

Questionable and further analysed in this thesis is surely whether financially driven measures such as child budget reductions blend in well with those progressive approaches many of the states blame to undertake.

To answer this, we will first have to go in depth with children's rights under the CRC and the specifics in measuring child poverty with currently existing indicators. This will be necessary to later build the bridge of effects that child budgeting may have on the situation of children as described by these indicators.

¹⁸ Ridge (2002), pp. 33-34.

Child Budgeting

Child Budgeting

What is Child Budgeting?

Child Budgeting constitutes a considerable analytical policy tool that can help to take stock of development investments for children. With its help, glaring and explicit gaps in a state's resource investment can be highlighted and identified. Constitutional and national policy commitments should be configured to create progressive policy frameworks and allocate the necessary and sufficient resources to it. If under-investment in for instance educational and health programmes targeted at children prevails, this might only serve to intensify and widen income gaps and perpetuate inequality, which in further also impedes any national efforts to accomplish important development targets.¹⁹

The importance of an analysis of a state's budget is undisputed; mostly to map those areas which are still neglected and require relative improvement. Essential here is the look at areas of child protection, in other words, to uncover in what areas children need special protection.²⁰ Additionally, by testing the assumption's underlying proposals and identifying pitfalls, such an analysis can help to turn policy ideas into the desired outcomes and supports to understand the intent and possible impact of governments' plans for raising or lowering public spending. Mostly, public budgets can be analysed from several perspectives such as the following²¹:

- Looking at budget trends over time
- Comparing spending for one sector, like health, to its share of the overall budget or to the budget allocated to another sector,
- Assessing how a budget addresses the needs of a particular group, such as children.

¹⁹ CBGA, UNICEF (2007), p. 3.

²⁰ Ibidem.

²¹ International Budget Partnership (2014), www.internationalbudget.org/budget-analysis, 16 May 2014.

Governments usually allocate scarce resources among competing interests, so increases in spending to one program or group of people will almost always require a decision to either increase revenues through taxes, fees, etc. or cut public expenditure in other programs and areas.²² What became clear over the past decades is that the realization of children's rights and human rights is not possible if commitments made are not backed by financial resources. This is when budget analysis began increasingly to be viewed from a human rights perspective.²³ The issue in child budgeting is, that children often receive less attention and are given low priority, and even if sufficient and adequate money is allocated to child-wellbeing program, it often ends up delivering less than what it initially was supposed to.²⁴

A state's budget

A budget is technically speaking the document that includes the government's expenditure and revenue suggestions for a certain period of time – usually a framework of a year. Economically and politically, it is therewith the most important document in mirroring government's fiscal targets and policy priorities and just like any law it has to pass legislature and the chief executive's assent. Key economic parameters like debt, inflation or any kind of policy goals (maintaining the deficit level, simplifying taxes, etc.) play an important role in drawing up a state's budget.²⁵

At any rate, large parts of a budget are practically fixed and there is very little money available to actually play around with. Often, the set-up of budgets depends on various different priorities and conflicting interests, where sadly the stronger lobby groups ultimately win out.²⁶ This underscores the importance that Civil Society Organizations (CSOs) must give to continued and sustained

²² Ibidem.

²³ Save the Children (2010), p. 2.

²⁴ Ibidem, p. 4.

²⁵ Save the Children (2010), p. 17.

²⁶ Ibidem.

interactions but also to lobbying with the budget-makers.²⁷ When governments accept CSOs as a constructive player and a complementary in fiscal planning, the quality of budget debate was shown to go up and the outcomes improve. A paper which reviewed the experiences of the OECD countries discovered that such greater involvement leads to a process that is more compatible with outcomes maintaining fiscal discipline.²⁸

Budgeting for Children

A budget for children is in practice not a separate budget, but rather an attempt to disaggregate those allocations made specifically for programmes addressing children from the overall allocations made in a state's expenditures.²⁹

UNICEF in 2007 defined child-friendly budgeting as a budget that *“reflects the realization of children’s rights. Specifically, national budgets that adequately address children’s issues, such as poverty, malnutrition, illiteracy or child protection can be considered to be equitable child friendly budgets. The goal of these children’s budgets is the prioritization of children and other socially vulnerable groups in the public expenditure system.”*³⁰

The question of course is, whether a state follows all its responsibilities it has towards these children’s rights and generally the realization of the well-being of children. To answer this question and to analyse a budget in the context of children, there are a few considerations and questions to be taken into account³¹:

- What national commitments to children have been made through constitution, law and policy?

²⁷ Ibidem, p. 20.

²⁸ Ibidem, p. 23.

²⁹ Save the Children (2010), p. 31.

³⁰ see: UNICEF (2010), p. 3.

³¹ Save the Children (2010), p. 31.

- What commitments according to international and regional human rights conventions have been ratified by the country (e.g. CRC)?
- What is the overall situation of children?

The recommendations by the Committee on the Rights of the Child it made in the discussions that took place during the day of general discussion on *Resources for the rights of the child – responsibility of States* in September 2007 help to interpret the responsibility states have in child budgeting based on their ratification of the CRC. The Committee recommends that state's parties³²:

- I. In view of the fact that investment for children has high economic return and in an effort to ensure that investments and other resources allocated for children serve as an instrument for fulfilment of children's rights
 - a. Make children a priority in the budgetary allocations as a means to ensure the highest return of the limited available resources; and make investment in children visible in the State budget through detailed compilation of resources allocated to them;
 - b. Consider using rights-based budget monitoring and analysis, as well as child impact assessments on how investments in any sector may serve 'the best interests of the child';
 - c. Undertake a comprehensive approach to children's economic, social and cultural rights, in particular, by identifying ministries and departments dealing with children and to make sure that other ministries are also able to demonstrate how their budget and programmes are consistent with the realization of children's economic, social and cultural rights.
- II. The Committee further recommends that the emphasis on allocations aimed at economic growth is not made at the sacrifice of social sector expenditure. In this respect, the macroeconomic framework of growth targets should be harmonized with a human development framework

³² CRC, 46th Session, Concluding Recommendations, 21 September 2007, paras. 30-31.

based on the CRC and the principles of non-discrimination, best interests of the child, participation, universality and accountability.

The CRC as clarified by these comments pays much attention to the identification and analysis of resources for children in any budgets, whether national or not. Basically, no state can tell to what extent they are fulfilling children's economic, social and cultural rights to the maximum of available resources as required under Article 4 of the CRC, as long as the proportion of national and other budgets allocated to the social sector and more precisely to children, both directly and indirectly, is not identified.³³

While counter arguments from states often claim that it is not possible to analyse national budgets in such a way, some states have perfectly managed to publish annual 'children's budgets'. With this the Committee receives information about the steps that are taken to ensure economic and social planning and decision-making and knows, whether budgetary decisions are made with the best interest of the child as a primary consideration and especially marginalized and disadvantaged groups of children are protected and targeted from any adverse effects of economic policies or financial downturns.³⁴

As an example of how budget monitoring may help, 'Budget for Children' in India in an analysis discovered that the allocation for a programme for resourcing Juvenile Justice, had been reduced in Union budget 2005-2006, whereupon this finding was taken up with the Ministry of Social Justice and Empowerment which acted promptly and revised the budget to a higher figure.³⁵ With the help of such a complete documentation of child budgeting, the challenge and complexity of evaluating state compliance with their obligation towards the fulfilment of ESCR and children's rights becomes manageable and many of the ambiguity and dubiety we discussed in the previous section may be reduced.

³³ Save the Children (2010), p. 34.

³⁴ Ibidem.

³⁵ Ibidem, p. 53.

Relevance of child policy

There is certainly much debate about the relative importance of different kinds of interventions and their contributions to the overall objective of child poverty reduction. While for decades poverty reduction focused primarily on improving a state's supply of goods and services, transferring resources directly to poor households as social protection is currently the established instrument.³⁶

The principal existing measures to reduce child poverty can be divided into three categories³⁷:

- Policies to alter income levels directly through the tax and benefit system, where the aim is to provide all families with direct financial support, with recognition of the extra costs of children, while targeting extra resources on those who need it most.
- Policies to promote paid work, aiming to ensure that parents have the help but foremost the incentive they need to find work. Paid work is seen as one of the most crucial long-term routes to financial independence for families. The government here aims to basically reduce the number of working-age people claiming jobseeker's allowances for long periods of times.
- Any measures meant to tackle long-term disadvantage and to provide a better start for vulnerable children by reforms in education, healthcare and employment.³⁸

In practice, protection measures can include transfers of cash to individuals or households, which might be wholly unconditional or linked to certain activities. Conditional transfers for instance may link cash transfer to any kind of obligation of recipients to participate in work, training, education, health,

³⁶ Sheahan (2011), p. 4.

³⁷ Gregg, Mauchin (2001), p. 146.

³⁸ Ibidem, p. 152.

nutrition or other services or activities such as an obligation to register children at time of their birth. With this, not only the objective to provide poor households with a minimum of income but also the improvement of accumulation of human capital for the next generation is achieved.³⁹

Frequently though, precisely during times of economic downturn, the fall in GDP is accompanied by a growing incapacity of governments and lower revenues, leading to decreased government expenditure and real allocations to the social sector.⁴⁰ With other words, the above measures become constricted and precipitously scaled down.

In an economic downturn there is already a direct negative impact on the level of material well-being that children enjoy as measured by household income attributed to increasing unemployment, rapid inflation, growing wage arrears and declining real wages, tighter eligibility for family allowances and lower levels of benefit when in payment, and so resources automatically are being reduced and increase the risk of child poverty. When this direct negative impact though is even attended by reduced government spending on social services or even the closure of some services that were previously provided and deteriorating infrastructure, resources for children shrink even further as illustrated in Figure 2⁴¹ below. Mostly also a drop in quality or quantity of services such as education and basic healthcare may be an outcome of reduced government spending.⁴²

³⁹ Sheahan (2011), p. 5.

⁴⁰ Falkingham, (2001), pp. 234-235.

⁴¹ Ibidem, p. 236.

⁴² Ibidem, pp. 236-237.

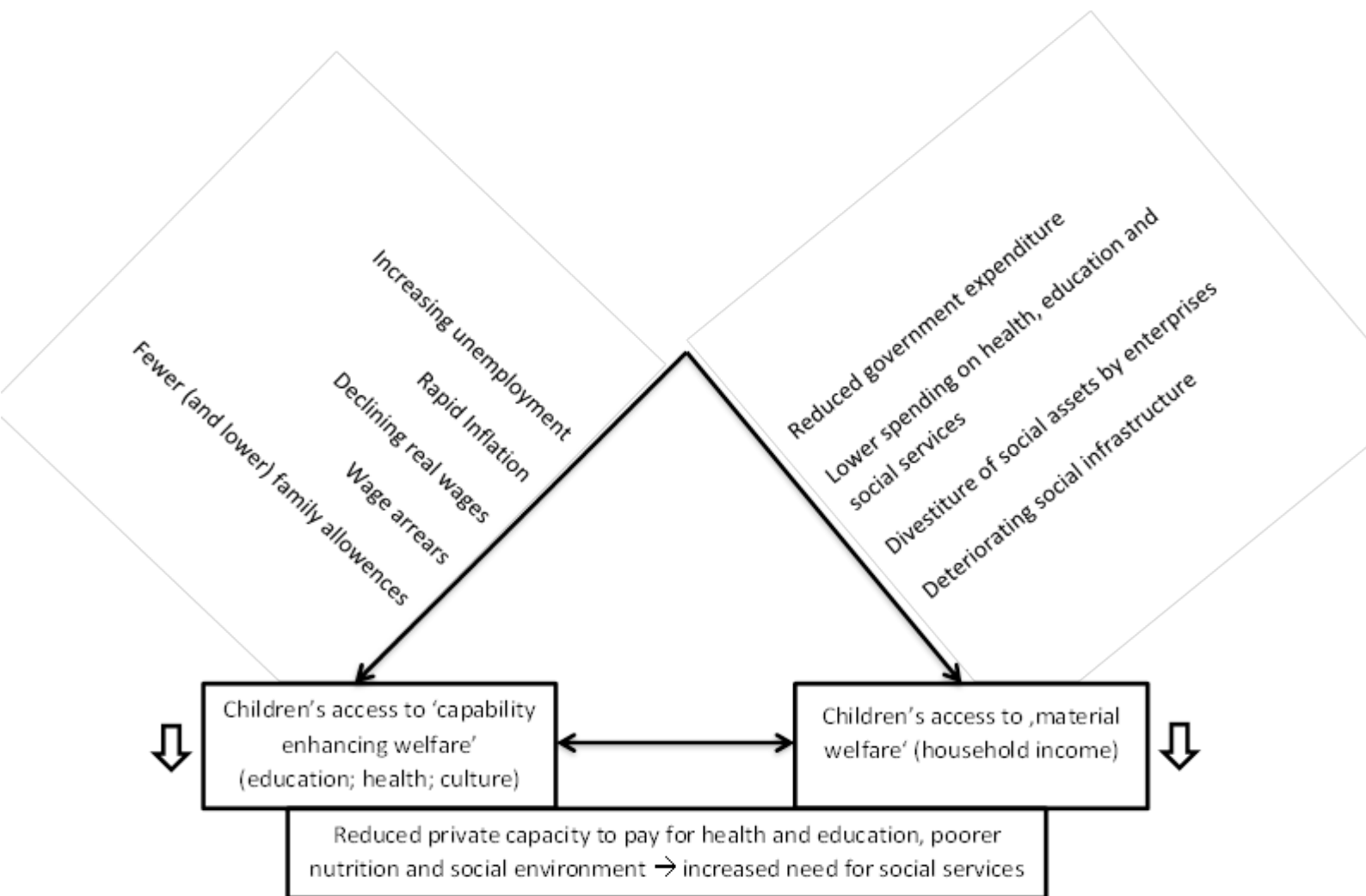


Figure 2: Impact of macroeconomic change on child welfare

Furthermore, lower household income in itself may result in poor child nutrition and child health, which would increase the need for a working healthcare system even further, straining the families who are already under financial pressure. This again creates the afore-mentioned vicious cycle of child poverty – ‘increased need and reduced ability to pay’. The key risks for younger children thus often flow from reduced access to healthcare services combined with low income and the main outcomes are poorer health and nutrition status.⁴³ Perilously is that such circumstances are not guaranteed to be automatically reversed as the economy improves, but child poverty and social exclusion may persist for years after.⁴⁴ Family benefits, the importance of child and family specific budget monitoring and the will to really act on results therefore clearly

⁴³ Ibidem, p. 237.

⁴⁴ Piachaud, Sutherland (2002), p. 152.

have a major role to play in child poverty prevention. In a study from 1994, for instance, it was calculated that the child poverty rate would rise from 3.1% to 7.5% in Denmark if only family benefits were removed.⁴⁵ The question remains, whether governments would not have an extra stringent responsibility to protect the future of their countries and minimise the risks children face during times of economic struggle.

Why then is it, that since the crisis began several governments have introduced social expenditure cuts that are directly felt by children as well as their families? Such austerity measures undermine the access to adequate resources, limit their access to – or damage the quality of – service provisions and restrict opportunities for children to participate in full joy in family and social life.⁴⁶

What becomes explicit is the effect such austerity measures have, visible in particular in a comparison of countries of roughly similar levels of economic development and per capita income. Denmark and Sweden for instance have much lower rates of child deprivation than Belgium or Germany, even though both have similar economies.⁴⁷ In Britain, research found that in 1997 the overall tax and benefit measures targeted towards children have the effect of reducing child poverty from 25.9% to 15.8%, assuming any other variables remain unchanged. This would in fact reduce child poverty by a fifth.⁴⁸

This shows that child poverty is certainly not inevitable, but that some countries are simply doing better than others in protecting their children. In fact though, all countries that ratified the CRC are bound to respect and fulfil their international human rights obligations – even when resources are limited and especially children should be protected to the greatest extent possible from

⁴⁵ Immervoll, Sutherland, de Vos (2001), p. 413.

⁴⁶ Eurochild (2012), pp. 4-5.

⁴⁷ Ibidem.

⁴⁸ Piachaud, Sutherland (2002), p. 147.

reduced expenditure.⁴⁹ Based on this approach of ‘available maximum resources’, states also have the obligation to maximise their revenues and collecting taxes efficiently whether through individual’s income, corporate tax, capital gains tax, property or customs tax. This forms a vital part of child budgeting of almost the same importance as any other expenditure decisions.

*“Many companies advertise their philanthropic contributions such as building a school in a developing country – if that same company is avoiding paying taxes that could have built 50 schools in the same country then something is wrong”.*⁵⁰

Tax avoidance and evasion by the private sector can also harm a government’s ability to provide the services and structures necessary and vital to address the problem of child poverty. A closely-related problem in this context is certainly that many companies fail to disclose the tax and royalties they pay in each country through the use of tax havens. Action is therefore needed by governments to address any loopholes through laws and enforcement to build the basis for a successful economy through regulation, administration and investment in infrastructure. Certainly though, increased revenue generation only leads to improved outcomes for children if the new revenues are actually translated into productive expenditure and do not harm vulnerable groups even more.⁵¹

After this section, we can certainly at least in theory say that there is a potential causality between austerity measures and child poverty, even though statistical evidence may be hard to demonstrate, especially since the impact of one measure may not come to effect immediately, but rather with a time-lag and in collectivism of other measures. While not every single measure implemented automatically increases child poverty, the potential for a measure to do so, especially if of certain degree and dimension, persists, as we have was also

⁴⁹ Eurochild (2012), pp. 4-5.

⁵⁰ see: Avery (2009), p. 3.

⁵¹ Sheahan (2011), pp. 11-12.

revealed with the given country examples in this section. Many experts thence see a clear connection and argue wildly for more caution when implementing such policies. Especially the real-life examples in the case study section will help to demonstrate even more that already small measures may affect the income of households in a sound manner and thus endanger children to slip into poverty.

Children's Rights

Children's Rights

Clearly, to answer the question of a state's responsibility towards child poverty, we first need to understand how children's rights relate to child poverty, whether the absence of child poverty is protected under human or children's rights and what state obligation to prevent poverty therefore exists.

Human Rights

Legal rights as derived from domestic statutes, administrative rules, customary law, contracts, tort law and other areas constitute a variety of rights human beings nowadays enjoy. What it means to enjoy a human right is to have a legal claim against somebody else, may it be a legal person or a public authority, to behave in a certain way or abstain from certain actions.⁵² Some of such legal rights are so important, that they are considered the special status of being constitutional or with other words, human rights. Courts and national human rights institutions and other judicial or non-judicial bodies are instructed to observe whether the relevant state authorities like the parliament and government violate human rights or comply with their duty to respect, protect and fulfil human rights by the necessary and respective legislative, political and judicial measures.

The UN General Assembly (UNGA) in 1948 adopted the Universal Declaration of Human Rights (UDHR) and with that set an impressive framework covering civil, political, economic, social and cultural human rights in general and of specific groups, among them children. In addition, legal human rights treaties have been codified that have achieved universal ratification and acceptance.⁵³ In this thesis, as afore mentioned more important though will be the International Covenant on Economic, Social and Cultural Rights (ICESCR) from 1966, as many issues relating to child poverty relate to these types of rights (sometimes referred to as the 'second generation' of human rights) and

⁵² Nowak, (2012): p. 21.

⁵³ Ibidem, pp. 23-24.

the Convention on the Rights of the Child (CRC) which depicts the most important document with regard to children's rights and therefore also explained in more detail in the next section.

The UN Convention on the Rights of the Child

One of the key international treaties targeting specifically children is the CRC – which has already received a matchlessly high number of ratifications and with that curtails the most ratified human rights treaty so far.⁵⁴ As of April 2014 194 countries⁵⁵ have become state parties to the CRC and are legally bound by it. With that, children are the only group of human beings that have received in the main universal recognition and arguably there might not be any other human rights standard as internationally agreed upon as in the field of children's rights.⁵⁶

Most human rights apply independently from age and are valid for adults as well as children alike. Nevertheless, some children's rights are strongly tied to the level of children's individual development and tied to areas that might insufficiently be covered by general human rights treaties.⁵⁷

After a ten year negotiation process, which was started by an idea of the Polish Government in 1978 to mark the following year's International Year of the Child, the Convention in November 1989 was adopted by the UNGA and one year later already entered into force. It aimed at a comprehensive child rights approach, taking different aspects of child development from a child-protection and a child self-determination perspective into account. The CRC in this regard addressed rights from different settings that range from families to alternative

⁵⁴ Sax, (2012), p. 422.

⁵⁵ UN Treaty Collection, www.treaties.un.org., status as at: 25 July 2014.

⁵⁶ Sax, (2012), p. 422.

⁵⁷ Nowak, (2002), p. 91

care arrangements, access to education, adequate accommodation and health services to inclusion of children with disabilities or care for child refugees.⁵⁸

The UN Committee on the Rights of the Child has established through interpretation four General Principles of the CRC which contain the extensive prohibition of discrimination (art. 2), the right to life and best possible development (art. 6), the right to participation (art. 12) and the principle of comprehensive orientation towards the best interest of children (art. 3 (1)). With that it also provides for positive obligations of states to ensure adequate standards of living, access to education, health institutions, social security, etc. and calls upon ‘the three p’s’ in children’s rights – the elements of *protection*, *participation* and *provision*.⁵⁹

Under the provision of the treaty, states that ratified the convention are legally obliged to fulfil the rights of every child.⁶⁰ All human and children’s rights, hence, are inseparable from the obligation of states that goes along with the realization of these rights and we will take a more specific look at the concrete obligation of states with regard to child poverty in one of the next sections. The CRC, anyway and for all those reasons, serves as an applicable foundation for the analysis of children’s rights in a global context and will represent the major legal framework in this thesis.

To set the terms of childhood, the CRC provides also a legal definition for children, (which we will due to consistency also adhere to in this thesis), where in its Article 1 it reads as follows:

*For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.*⁶¹

⁵⁸ Sax, (2012), p. 425.

⁵⁹ Nowak (2012), p. 93

⁶⁰ UNICEF (2009), p. 2.

⁶¹ see: UN (1990), CRC, Art. 1.

People below 18 are in many states in a weaker position in claiming their general human rights. Even though, in this thesis children will generally be defined with this general definition above and no specific distinctions will be made in policies relating to different age groups, it cannot be ignored that different age groups are quite diverse within this group and might be affected quite differently by certain measures and rights.

Relevant Provisions under the ICESCR and the CRC

While economic deprivation or the lack of income is an often used standard feature of most definitions of poverty, the phenomenon touches upon a myriad of social, cultural and political aspects and certainly not only a deprivation of economic or material resources. Poverty certainly nullifies economic and social rights such as the right to health, adequate housing, food and safe water, and the right to education. But the same is also true for civil and political rights, such as the right to a fair trial, political participation and security of the person,⁶² as people living in poverty are often socially excluded and marginalized from political power and processes and especially when it comes to children, the right to effectively participate in public affairs is often ignored.⁶³

Since a disquisition about all potentially relevant rights in regard with poverty would be extremely extensive, this thesis focuses on exactly those basic material deprivation and economic and social rights. In this context thus, the ICESCR and the CRC will be taken into consideration for deprivation of food, water, sanitation, education and health and social security, taking especially ICESCR Art. 7b, 9, 11, 12, 13 and CRC 24, 26(1), 27 (1)(3), 28, 29 into account, as these provisions relate closely to the above deprivations and basic rights.

⁶² OHCHR (2014a), www.ohchr.org/EN/Issues/Poverty/DimensionOfPoverty, 28 July 2014.

⁶³ OHCHR (2014b), www.ohchr.org/EN/Issues/Poverty/Pages/SRExtremePovertyIndex.aspx, 28 July 2014.

ICESCR		CRC
Art. 7b	Right to safe and health working conditions	
Art. 9	Right to social security	Art. 26
Art. 11	Right to an adequate standard of living	Art. 27
Art. 12	Right to health/ highest attainable standard of health	Art. 24
Art. 13	Right to education	Art. 28

Table 1: Relevant Provisions

Nevertheless, while these two documents have attracted near-universal support, differences of interpretation between governments and reservations attached were of course left in practice and need to be clarified for purposes of interpretation and action.⁶⁴

While income is not necessarily an indicator to usefully demonstrate poverty, it is widely used in practice and therefore this thesis takes a focus on rights that may be more directly linked to income and financial deprivation, rather than going in detail with problems of social, political or cultural exclusion, which are undoubtedly just as well accompanying problems of poverty.

Furthermore, as mentioned above we will focus on rights under the ICESCR, as measures affecting especially these rights are sometimes used more improvidently as the clause of progressive realization may sometimes be misinterpreted to justify a minor degree of implementation of these rights, particularly in times of financial scantiness. Moreover, some of the most drastic and lasting human rights consequences of austerity have been in the field and

⁶⁴ Gordon, Nandy, Pantazis, Pemberton, Townsend (2003), p. 11.

domain of economic, social and cultural rights.⁶⁵ For that reason, the centre of attention will be rights of this area.

Examples of Austerity Measures in the Area of ESCR

In 2012, for instance the European Committee of Social Rights (ECSR) found that 13 countries have been in breach of their duty under Article 1 (1) of the European Social Charter to pursue full employment policies.⁶⁶ From what we learned earlier, the work situation of parents does have a demonstrable influence on child poverty and the future living standard of children and with the setbacks in the right to decent work concomitantly the right to an adequate standard of living has been threatened and deepened poverty across many groups.⁶⁷

The right to social security and social protection has also suffered austerity related setbacks, when social insurance and assistance programmes build resistance against financial risks and provide access to essential goods and services. While the crisis leads to an increase in the demand for such social protection, the financial capacity of social protection institutions becomes limited. Further, the right to housing, food and water has been compromised, where homelessness has increased and the crisis expanded homelessness and governments decided to reduce food subsidies and decreased attention to water infrastructure maintenance without adequate safeguards to ensure access to the minimum essential levels.⁶⁸

Cutbacks in education budgets specifically hit children and led the right to education suffer extremely. Spain as an example cut its budget by 21.4% between 2011 and 2012 and Estonia by 10% between 2008 and 2009. Cuts in education, subsidies, but also in scholarships, teacher's salaries and general

⁶⁵ Council of Europe, Commissioner for Human Rights (2013), Issue Paper, p. 17, www.enetenglish.gr/resources/article-files/prems162913_gbr_1700_safeguardinghumanrights_web.pdf, 6 June 2014.

⁶⁶ Ibidem.

⁶⁷ Ibidem, p. 18.

⁶⁸ Ibidem, pp. 18-20.

budgeting for schools affect the quality, accessibility and affordability of education and may even lead to higher school drop-out rates with a logical long-term effect on child poverty.

Further relevant is the right to the highest attainable standard of health. In Greece for instance, numerous institutions, among that the EC, ECB and IMF have demanded that public spending on health should not exceed 6% of GDP. The long-term effects on public health with such a measure though may be unavoidable as the Commissioner for Human Rights in its Issue Paper states. Nevertheless, many countries such as Latvia have introduced budget cuts in the health sector that undermined the accessibility especially for vulnerable groups such as families and children.⁶⁹

This clearly shows how public expenditure reduction can affect the rights of children and may increase child poverty, which has become a major concern with long-term effects. Poverty among children even increased more drastically than poverty among the general population. Austerity measures related to child and family benefits, generalised unemployment and rising food prices are central issues affecting the well-being of children.⁷⁰

Is Poverty a Violation of Human Rights?

Already the articles identified above should give enough reason to show that if poverty entails that those rights cannot be realized and experienced wholeheartedly, poverty, even if not perceived as a violation in itself violates and harms a vast number of human rights and can therefore only constitute a human rights violation itself. Actually though, the UDHR (Art. 25), ICESCR (Art. 11) and CRC (Art. 27) in fact can be interpreted as speaking directly about a right to be free from poverty:

⁶⁹ Ibidem, p. 20.

⁷⁰ Ibidem, p. 23.

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”⁷¹

Already this right to an adequate standard of living, if interpreted in an argument converse, would mean to be free from poverty, as an adequate standard of living under no circumstances can be realized as long as extreme economic deprivation dominates someone’s life. While this right does not directly mentions to be free from poverty, the connection is clear-cut and undisputed among most scholars.

Apart from this, we have further selected a number of other rights that are linked to poverty or might be violated because of economic deprivation, but we can even take another step to generalize poverty as a human rights violation and find arguments beyond the lack of an adequate standard of living. Authors have forged a number of different concepts under the common reasons that they try to take the poor person’s point of view and with that his or her suffering, freedom and dignity.

Those arguments are based on the assumption that there are commonalities that are sufficient within all human beings to allow the realization of human rights for all. With that, we can say that scholars provide useful concepts to support the idea that poverty is a failure of human beings’ quest for dignity.⁷²

Naturally, the relative deprivation of someone owning three automobiles while his neighbours own five cannot be put on the same level as the lack of drinking-water in some villages or the incapacity of some people to obtain a high school diploma.

⁷¹ see: UDHR (1948), Art. 25.

⁷² Tardieu, (1997), p. 210.

Thus, it might be even necessary to locate what is absolute even within relative poverty or in other words – absolute not with reference to humanity as such, but absolute with reference to the basic sociocultural features. With that we should frame the question as such: does the corpus of human rights contain a right not to involuntarily experience a poverty which is a sign either (1) of human basic deprivation or (2) of sociocultural basic deprivation?⁷³

As the 1948 UDHR in its preamble indicates:

“...the advent of a world in which human beings shall enjoy freedom from speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.”⁷⁴

Human rights can only be understood in the sense of the dynamics of freeing humanity from any fear and want where *want* clearly shows the issue of poverty as a violation of human rights connects up, with the issue of basic deprivations.⁷⁵

All the more, this gets specified in a series of articles that specify these rights; particularly articles 22 and 25 on the realization of economic, social and cultural rights and a standard of living adequate for health and well-being. Those articles in themselves as already discussed before, seem to suffice as a bulwark against all humanly and sociocultural deprivations.⁷⁶

Further, the United Nations General Assembly in its resolution 1991 “affirms that extreme poverty and exclusion from society constitute a violation of human dignity”⁷⁷. France’s Economic and Social Council in its Wresinski ESC Report⁷⁸ also declared the debate on extreme poverty as an issue on human rights, in

⁷³ Arnsperger (2003), pp. 4-5.

⁷⁴ see: UDHR (1948), preamble.

⁷⁵ Arnsperger (2003), p. 5.

⁷⁶ Ibidem.

⁷⁷ see: UN General Assembly/RES/46/121, 1, 1991.

⁷⁸ Wresinski (1989), http://www.joseph-wresinski.org/IMG/pdf/THE_VERY_POOR.pdf, 6 June 2014.

which it reads that poverty is a violation of all human rights and that the poorest are the ones victimised by these violations.⁷⁹ Two years after, the National Commission on Human Rights published a study in which it documented well-gathered evidence in partnership with poor people that extreme poverty in a country like France is a violation of human rights.⁸⁰ Therewith it well shows that the pressure is piling on to regard child poverty as a violation of human rights.

Understanding child poverty as a denial of children's fundamental human rights, caused from a lack of resources emphasises the interrelatedness and interdependency of the dimension of deprivation. Access to decent housing, health care, a balanced and adequate diet contributes positively to children's success in school. Contrasting overcrowded accommodation in a deprived neighbourhood can contribute negatively to poor health, low educational attainment and disaffection from school.⁸¹

Whether looking at child poverty from a more generalized wider perspective or specifically with regard to certain rights that might be harmed as a result of child poverty, the obligation of states to act against child poverty is absolutely founded. In the chapter on the state's obligation we will discuss what those obligations mean in order to eradicate poverty.

⁷⁹ Tardieu, (1997), p. 210.

⁸⁰ Ibidem, pp.210-211.

⁸¹ Croke, Crowley (2011), p. 267.

Child Poverty Indicators and Measurement

Child Poverty Indicators and Measurements

As captured in the words of Tony Blair, Prime Minister of the UK in his 1999 Beveridge lecture: *“And I will set out our historic aim that ours is the first generation to end child poverty forever, and it will take a generation.”*⁸²

With that he spawned a debate about how child poverty should then be defined and measured in order to assess the government’s achievements. Arguments, that as the overall living standard rose, a measure based on families with incomes somewhere below the average would still leave many children in poverty, were brought forward as reason why the government was not meeting its target. Others though pointed out, that compared to the standards that existed in 1997 when the commitment by the government was made, significant improvement had been made.⁸³ This controversy is an example that illustrates nicely, how different measures of child poverty are used and still leaves open a clarification for the formal measurement of child poverty.

Just as defining poverty is not easy, measuring child poverty under the multi-dimensional nature is even more difficult. While there do exist a number of measurable and quantifiable variables such as income, consumption and access to basic services, also capabilities variables that may not be so easily measured should be taken into account – such as the capability to participate in society without facing discrimination. Because the latter set of variables is quite complex, most organizations rely on the monetary approach to measure poverty – the poverty line, which is of course a very partial and sometimes even counter-productive approach, since it overlooks for instance different needs of people (people with disabilities), disregards the importance of public services and public goods (education, health care) or neglects different characteristics of households. Another approach takes measures of deprivation into account such as deprivation of sanitation facilities, health deprivation and education.

⁸² see: Blair (1999), p. 7.

⁸³ Alcock (2006), pp. 4-5.

Unsurprisingly, the percentage of the severely deprived children is greater than the percentage of people struggling to survive on less than US \$ 1.25 a day or living below the national poverty lines, meaning the monetary approach strongly underestimates child poverty. Internationally, commonly used as by the World Bank is a poverty headcount ratio of \$1.25 a day⁸⁴ and also the International Monetary Fund (IMF) measures according to this method.⁸⁵

What is an approach that is often used as a standard design to measure child poverty is the annual disposable income, including market incomes and government cash transfers and deducts income taxes and any compulsory social insurance contributions. Still, this does not necessarily depict a comprehensive indicator of all the resources available to the families of children as it, as mentioned above, excludes non-cash services. Often though, this remains the best widely available indicator to undertake any cross-national comparisons in living standards. Assumed under this approach is further that resources are shared within households and therefore defining every person in the same household as having the same poverty status.⁸⁶ (This is oblivious to the possibility of children being deprived despite a decent household income, mentioned in the section on causes of child poverty.) Nevertheless, this is the definition in the majority of cases available across most OECD-countries.⁸⁷

However, how can we decide whether children's rights and within that child poverty are effectively taken into consideration in state policies, if child poverty and even more so children's rights relating to child poverty are rarely possible to measure in a standardized way?

Only with a set of appropriate indicators and measures can policy outcomes and effects (whether long-term, short-term, leading or lagging) be evaluated on a comparable and objective level. This is why this section on child poverty

⁸⁴ World Bank (2014), http://data.worldbank.org/topic/poverty#tp_wdi, 25 July 2014.

⁸⁵ Minujin et al. (2006), p. 10-14.

⁸⁶ Bradbury, Jäntti (2001), p. 12.

⁸⁷ Ibidem.

indicators is extremely important as it shows the arrears and problems in measuring child poverty and children's rights and therefore the repercussion of changes in child policies, whether positive or negative as we sadly find frequently occurring during this economic downturn.

Measuring Child Poverty

Typically used in the literature on poverty measurement are the two different types of poverty threshold: the *absolute* and the *relative* poverty lines. *Absolute* or fixed real price poverty lines are thresholds permitting people living in specified family types to purchase the same bundle of goods and services in different times or different countries. Families falling below this common consumption threshold are thus referred to as being poor. *Relative* poverty lines on the other hand, are used in connection with concepts of social exclusion and typically refer to a measure of 'typical' consumption levels such as the half median income (For each individual in the population the equivalent income is calculated. The poverty line is defined as 50% of the median of this variable across the national population. Child median poverty calculates this based on children only.) For most countries, when measured against the child rather than the adult median, child poverty is about a third lower. This is due to the fact, that the equivalent family income of the median child is somewhat lower than the equivalent family income of the median person.⁸⁸

As mentioned above, the overall income sources of families can be constituted in the following simplified manner:

$$\textit{Disposable Income} = \textit{Market Income} + \textit{Net Social Transfers}$$

Therefore, public income transfers are a crucial part of the overall income sources of families with children. Commonly, approaches might show the association of selected indicators of welfare effort with the child poverty rate where research showed that there is generally a qualitatively significant

⁸⁸ Ibidem, pp.13-14.

relationship - countries with a high share of GNP spent on social expenditure have lower relative poverty rates.

The problem with measuring this, however, is that most social expenditure is spread in a broader way across the population, not only targeting those likely to be poor. In other words, most countries spend substantial amounts on programmes that provide cash transfers to all or all families with children as a support.⁸⁹

Here we can already compose the difficulty in analysing the effects of financial reductions in child policies on child poverty, since the distinction of such expenditures are not strict but rather blurry effecting usually more than one specific target group.

Further, the problem of measuring child poverty based on this mere financial indicator *income* is quite controversial. Nevertheless, it is the indicator most widely used in measuring child poverty and thus also used later on in the case study in this thesis. We will nevertheless, explain on the basis of the country cases the problems arising with measuring child poverty based on the disposable income.

Regardlessly, studies showed, whether measured in relative or real terms; child poverty varies strongly across countries. Nations with higher levels of national income tend to have lower real poverty rates and cash transfers to poor families are important for their living standards. Indeed though, market income still and will most likely remain to play an even larger role than the state transfers in accounting for cross-national diversity of outcomes for disadvantaged children.⁹⁰ Yet, the contribution public expenditure can make on poor families and children is documented and therewith a variable that needs more attention.

⁸⁹ Ibidem, p. 24.

⁹⁰ Ibidem, p. 29.

A further distinction can be found with measuring child poverty between the concern with the present and concern with the future. As noted in the section on causes of child poverty, childhood is not only a phase of life with inherent significance, but process of development and a period of preparation for the future adult life.⁹¹ For that reason, measures affecting child poverty might not only have a leading effect, but rather a lagging effect, that might be noticeable just after a number of years. Certainly, this makes the measuring of immediate policy effects in many cases complicated, as effects may only become visible over a certain period of time. Thence, this could be a reason for a lack of motivation in policy decisions to spend high amounts of resources, if a policy will not show its positive outcomes until several years later.

Measuring Children's Rights

Despite the problems in measuring child poverty and a lack of an universally accepted and entirely standardized framework for its measurement, financial indicators and poverty lines respectively exist which help to draw the picture of current child poverty in a country and give a simplified insight into child poverty issues within a country. More difficult though, is the measurement of the realization of children's rights directly. Basically, no indicators measuring the level of children's rights in a country exist and thus other indicators as for instance relating to child poverty have to be consulted to indirectly find gaps in the implementation of rights, which makes detailed measurement even more inaccurate. Still, it is possible to create a link (even though a somewhat far-fetched and oblique link) between existing indicators and children's rights as will be discussed in the following.

The key objective of indicators is among others to assess the extent to which children's programmes or policies are being improved or deteriorated by identifying key indicators and their relationships to certain outcomes of state

⁹¹ Ben-Arieh (1997), p. 12.

measures.⁹² Only when indicators for children's well-being are constantly measured and published, they can play a critical role in the monitoring of outcomes of policies and programmes and especially during times of budget difficulties as some countries face during this economic recession, it has to be assured that the money available is invested as wisely as possible.⁹³

For those reasons, UNICEF has been publishing its State of the World's Children reports since 1997 which serve as an annual review of basic indicators on children's survival and development and has helped to monitor how children fare. With the Convention on the Rights of the Child under Article 44 it became mandatory for states to establish information on children and their well-being and calls for information on measures each country has taken to implement the Convention.⁹⁴

Unfortunately though, governments reporting to the Committee on the Rights of the Child are rarely in a position to deliver statistical or quantitative information that could provide the needed adequate illustration of the situation with respect to the status of children's rights. But there is in fact reason to believe that an enormous heap of information about children, both qualitative and quantitative, already exists in most countries, but uncoordinated government agencies make it difficult to assess and use the information in a proper way. What still needs consideration is the task to define what distinguishes a child rights indicator from a childhood indicator or a social indicator, as currently primarily the latter are in use.

Obviously, there is a need to link exactly those social and economic indicators to specific rights as expressed in the CRC to understand what the most appropriate way of expressing the implementation of every right through objective data may be. In other words, work with child rights indicators will ultimately lead back to the key question what the actual rights of the Convention

⁹² Ibidem, p. 13.

⁹³ Ibidem, p. 22.

⁹⁴ Miljeteig (1997), p. 55.

mean. Even the 'simpler' parts of the CRC, like the right to education, might be hard to interpret: How or when is the right to education accomplished; how should it be measured? By enrolment in primary school, by how many students finish a certain number of years in primary school or by actual time spent in school? This right thus, may be understood differently in different countries. Importantly though is that there is great need for analysis and interpretation of the Convention; and thus the following section will illustrate a number of indicators that may best depict the effected rights when living in poverty.⁹⁵

Child Poverty Indicators relating to the UDHR and the CRC

The CRC in fact does not make any specific reference to poverty and certainly not to 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, but it considers children of particular vulnerability and a conclusion drawn from this particular vulnerability is that proper prevention does positively impact on children's well-being and future prospects.⁹⁶

As already discussed earlier, we can say that poverty does define a situation under which basic human needs are deprived in the forms of lack of income and productive resources to ensure sustainable livelihoods; hunger and malnutrition; ill health; limited or lack of access to education and other basic services; increased morbidity and mortality from illness; homelessness and inadequate housing; unsafe environments and social discrimination and exclusion.⁹⁷ Human rights violations are thus both, a cause and consequence of poverty and with that, are part of what it means to be poor.⁹⁸

Still, trying to subdivide child poverty into specific human rights, as was among others suggested in a Report to UNICEF by authors of the University of

⁹⁵ Ibidem, p. 58-61.

⁹⁶ Vandenhole (2013), 621-622.

⁹⁷ UN (1995b), Programme of Action of the World Summit for Social Development, Chapter 2, 19.

⁹⁸ Croke, Crowley (2011), p. 267.

Bristol, where the report showed on the ground of the UN Declaration of Human Rights what rights can be compromised for a child when living in poverty and how those human rights translate into general indicators.

Similarly, the following two tables show some depicted indicators relating to the Articles of the ICESCR and the CRC we have listed in the section on children's rights. Of course, in a wider sense many more human rights can be vitiated through poverty, however, this serves as an understanding how extensively the rights of children might be affected and shows that indicators induced by child poverty do relate to the enjoyment or non-enjoyment of certain human rights.

Human rights affected by child poverty	Selected indicators relevant in child poverty
Right to life and highest attainable standard of health (Art. 3, 12)	<ul style="list-style-type: none"> ▪ % infant mortality (per 100 live births) ▪ % under-five mortality (per 100 live births)
Right to adequate standard of living (Art. 11)	<ul style="list-style-type: none"> ▪ Malnourished-Underweight children (under 5) ▪ % with less than 1\$ per day per child ▪ % with less than 2\$ per day per child ▪ % below national poverty line ▪ Calories per child per day as % high income countries ▪ % with access to safe drinking water
Right to social security and economic social and cultural rights (Art. 9)	<ul style="list-style-type: none"> ▪ % with no access to health services ▪ % with access to no sanitation
Right to education (Art. 13)	<ul style="list-style-type: none"> ▪ % of children not in primary education ▪ % of children not in secondary education ▪ % youths illiterate

Table 2: Child Poverty Indicators of Children's Human Rights based on the ICESCR⁹⁹

⁹⁹ Gordon, Pantazis, Townsend (2001), p. 4.

When drawing on the CRC, only relatively little indicators can be added to what was gleaned from the first table. While indicators that directly relate to children’s rights in a grouped way so that the situation of children can strictly be compared would be an important tool, there is rarely available information that would immediately show the situation of the realization of such the rights in the CRC.¹⁰⁰

Children’s Rights affected by child poverty	Possible Indicators
Right to attainable standard of health and access to adequate nutritious foods, clean drinking water, pollution free environment and preventive and curative health care services (Art. 24)	<ul style="list-style-type: none"> ▪ % of children immunised ▪ % of untreated incidents of diarrhoea and the form of treatment received ▪ % of malnourished children
Right to benefit from social security, incl. social insurance (Art. 26)	<ul style="list-style-type: none"> ▪ % of population protected by family benefits
Right to standard of living adequate for physical, mental, spiritual, moral and social development and material assistance and support programmes – particularly for nutrition, clothing and housing (Art. 27)	
Right to free primary education and where appropriate free secondary education to enlarge access to education (Art. 28)	<ul style="list-style-type: none"> ▪ Number of children between 7-18 years who have not received any primary or secondary education ▪ Proportion of children aged 10-12 years reaching a specific level of learning achievement in literacy, numeracy and life skills.

Table 3: Children’s Rights and possible Indicators based on the CRC¹⁰¹

Some rights are doubtlessly more prescriptive than others and almost containing ‘perfect/imperfect’ duties, meaning some rights and their corresponding indicators represent a better match than others. An example of a

¹⁰⁰ Ibidem, p. 8.

¹⁰¹ Ibidem, p. 9.

rights-indicator closest to the 'perfect' point is that of education. As a theoretical measure of Article 28 of the CRC the severe deprivation indicator 'unable to attend primary or secondary education' provides a close measure of the prescribed component of the article. Contrary, the more general Article 24 of the CRC that states to secure health through the development of the necessary services and treatment makes interpretation more difficult when for instance an indicator such as 'expanded program of immunisation', alongside the treatment of diarrhoea is taken.¹⁰²

Anyhow, if this list was completed, commentaries and shortcomings would be more robust and deficiencies better exposed to the overall realization of children's rights and the overall condition in certain countries – in other words an 'index of access to rights' would be constructed. One problem in that regard is surely the partly unwillingness of governments to collect or publish certain kinds of information on a directly comparable basis about human rights as e.g. the right to social security, to an adequate standard of living or access to public services.

Partially a consequence of this is that access to rights, when selectively measured is shown to be greater in high-income than low income countries. Furthermore, relatively few examples as Table 2 shows of 'direct' measures of child-rights exist. Additionally and despite the fact that the list may be incomplete, most measures are indirect – meaning they apply for adults as well as children. Especially data about access to different forms of rights is difficult to generalise and accommodate.¹⁰³

The shortcomings of comparably understanding the situation of realization of children's rights in every country is more than apparent and makes an analysis of state policies on the said rights even more difficult. Many of the outcomes of fiscal changes in child budgeting might thus only be very indirectly visible and

¹⁰² Ibidem, pp. 19-20.

¹⁰³ Ibidem, pp. 9-10.

measurable through indicators like the above. Mostly though, they are incomplete among different countries and only depict a very small portion of results of child poverty.

By clustering certain rights and developing indicators that are based on the articles in the CRC such state policies could be much more transparent – an aspect that is extremely important for accountability and should be seen as a part of the state obligation to have sufficient empirical and reliable data and conduct regular research. Regardless and despite this difficulty in linking child poverty indicators directly to the two human rights documents, it is important to understand that states do have an obligation to protect children from poverty and that poverty in itself might be a human rights violation if beheld from a holistic view as we have discussed in the previous chapter.

Debatably though, if outcomes of child policies on children's rights are barely measurable in a direct way, how can we decide whether a change in government policy may be contradicting to the state obligation under the CRC to realize children's rights? There is certainly a gap in evaluating how those two areas relate. In the next chapter we so discuss the obligation of states and try to understand if certain austerity measures violate the obligation of states to realize children's rights and the responsibility to fight poverty.

State Obligation in the Context of Child Poverty

State Obligation in the Context of Child Poverty

Despite the difficulty in existing indicators to measure the effects of government policies on child poverty, all human rights and children's rights as written down in the documents we have discussed above go inextricably hand in hand with certain state obligations. Rights can only be realized if there is a second party that respects fulfils and protects these rights. Obligations of states thus are intrinsically tied to the rights written down in the CRC and the ICESCR, which may also clarify if certain austerity measures do violate children's rights, if these measures are contradicting with those obligations.

Important to understand is that when it comes to human rights and international law, only sovereign states can be held directly responsible and accountable for human rights violations. Non-state actors or individuals are generally not answerable to any such violations¹⁰⁴, even though this view is nowadays surrounded by a debate that argues also for individual responsibility under international criminal law or corporate human rights obligations.

Obligations of States to Respect, Fulfil and Protect Human Rights

It is nowadays undisputed, that in principle states are obliged to respect, fulfil and protect all human rights.

¹⁰⁴ Nowak (2002), p. 54.

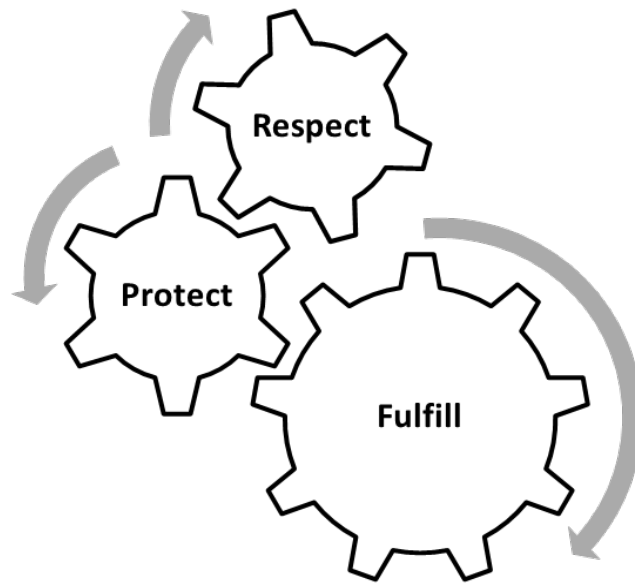


Figure 3: Respect, Fulfil and Protect Human Rights

Here the *obligation to respect* refers to the obligation of states to refrain from state intervention and any unjustified interventions that violate human rights.¹⁰⁵

The *obligation to fulfil* human rights, and in this thesis the most crucial of the three concepts, applies to the state's obligation to take the necessary legislative, administrative, judicial and practical measures in order to ensure that certain human rights are implemented to the greatest possible extent. In this regard, prevention is a special concept, where the state has to assure the protection of the rights in question via e.g. putting in force the needed police departments. When later on analysing whether non-compliance with this positive obligation to fulfil a human right exists; several factors will define the outcome of this question. Issues of state priority (political programme, distribution of existing resources), issues of economic reasonableness (standards of cost-intensive rights like education or health must be higher in industrialized countries than in the poorest of states), current social developments (economic crises), measures of progressive realization of human

¹⁰⁵ Ibidem, p. 49.

rights, as well as of course the specific situation in every single case have to be considered; both, in advance to assess the consequences of planned measures and retrospectively during an objective monitoring and accountability procedure. In any way, states are in no case allowed to take retrogressive measures which deprive people of the core content or minimum threshold of human rights.¹⁰⁶ We will also specify what the obligation to fulfil in relation to child budgeting may refer to later on in this chapter.

Last, the *obligation to protect* refers to positive state action by avoiding human rights violations by private persons. To what extent the state is responsible to protect private persons is still highly controversial and is closely linked to the question of horizontal effects of human rights.¹⁰⁷

The Obligation of States under the ICESCR and the CRC

When looking more specifically at the obligations of states under the CRC (Art. 4) and the ICESCR (Art. 2), governments are obliged to invest the maximum available resources into eliminating child poverty and the UN continuously calls on states for the CRC and the ICESCR to be entirely incorporated into domestic law in order to respect, protect and fulfil children's rights to the fullest.¹⁰⁸

Under Article 11 of the ICESCR, it recognizes "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".¹⁰⁹

As first articles of the CRC that come into consideration with child poverty are Articles 27 and 4 but also the General Comments of the CRC Committee to

¹⁰⁶ Ibidem, pp. 49-50.

¹⁰⁷ Ibidem, p. 50.

¹⁰⁸ Croke, Crowley (2011), p. 275.

¹⁰⁹ UN (1976), ICESCR, Art. 11.

provide information on what socio-economic rights are and to complement the Committee on Economic, Social and Cultural Rights' General Comments.¹¹⁰

CRC (Art. 27) now calls upon the States Parties to implement the 'right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. Thus, CRC parties have to fulfil their obligations 'in accordance with nationals and within their means.'¹¹¹

Under CRC (Art. 4), States have to take measures 'to the maximum extent of available resources'. While socio-economic rights may not always be achievable immediately as resources may not be available, the state party nevertheless is required to show that it has used all the resources that it has available to a maximum extent and as a matter of priority also requires an adequate, transparent budget analysis.¹¹²

Further important is CRC (Art. 3) which makes it clear that in all actions concerning children, whether undertaken by public or private or social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration, including decisions regarding economic welfare. Article 6 even directly calls to 'ensure to the maximum extent possible the survival and development of the child'.¹¹³

If any the above articles are wholly or partially unmet, the child can be said to be in a situation of absolute or relative poverty and this further should be understood as a denial of the children's fundamental human rights as Eurochild has already suggested in a discussion paper in 2007 and emphasized with the following graph.¹¹⁴

¹¹⁰ Croke, Crowley (2011), pp. 269-270.

¹¹¹ Ibidem, p. 270.

¹¹² Ibidem.

¹¹³ Ibidem.

¹¹⁴ Eurochild (2007), p. 3.

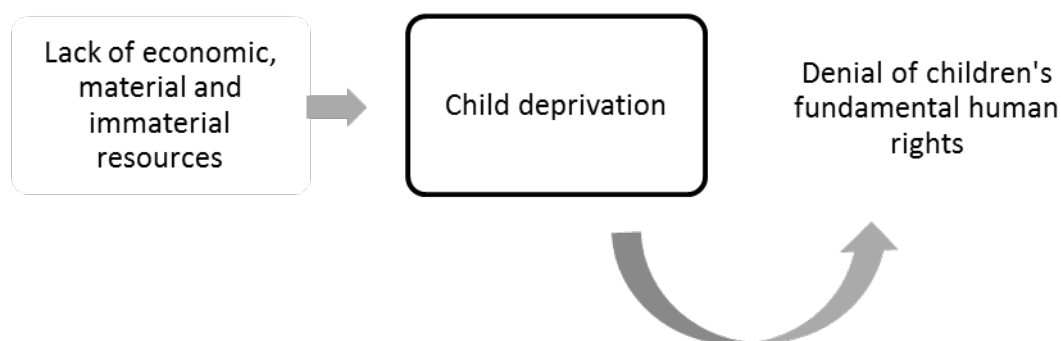


Figure 4: Child Poverty as Denial of Human Rights

Focus in this approach is laid on the failure of macroeconomic structures and state policies and with that specifies the responsibility of the state and other national or international institutions.¹¹⁵

Mostly two different kinds of fundamental rights can be identified: negative rights and positive rights. Negative rights or liberty rights that indicate what governments cannot do, preventing the government to interact in a way that is in the individual's restriction of liberty. Positive rights on the other hand, express what the government can do, under which economic, social and cultural rights lay as a way of well-being that should be guaranteed by the government.¹¹⁶

Even if defining a positive governmental social welfare obligation may be more difficult than defining a prohibited action such as torture¹¹⁷, this means policy-makers need to take a human rights approach to child poverty to broaden the scope of anti-poverty strategies and promote joined-up government to address the multiple causes of child-poverty.¹¹⁸

¹¹⁵ Ibidem, p. 5.

¹¹⁶ Ibidem, pp. 5-6.

¹¹⁷ Ramsey, Braveman (1995), p. 1638.

¹¹⁸ Eurochild (2007), pp. 5-6.

The Problematic of Progressive Realization

We identified a number of rights and therewith obligations with regard to child poverty. It is still problematic though, to assess whether states fulfil their obligation or not. Apart from the afore mentioned problematic of insufficient indicators to portray what measures effect child poverty to what extent, there exists another problematic when it comes to economic, social and cultural rights (ESCR). While those views among scholars and child rights institutions might exist, technically speaking, poverty can only constitute a violation of children's rights if the state has failed to abide by its obligation to respect, protect or fulfil these rights and especially establishing a violation of economic, social and cultural rights is often cumbersome, given the weak general obligation of progressive realization of ESCR.¹¹⁹ Progressive realization, in its core signifies that states should take appropriate measures towards the full realization of ESC rights to the *maximum of their available resources*.¹²⁰ But what exactly does this mean?

The reference to this terminology of 'resource availability' reflects a recognition that the realization of such rights can admissibly be hampered by a lack of resources and can only be achieved over a longer period of time. In other words, it equally means that a State's obligation or compliance with its responsibility to take appropriate measures is assessed in the light of the resources (mostly financial ones) available to the State.¹²¹ Article 4 of the CRC for instance falls in the category of the clause of 'progressive realization' limiting the obligation to *the maximum extent of their available resources and, where needed, within the framework of international cooperation*.¹²²

¹¹⁹ Vandenhole (2013), p. 626.

¹²⁰ OHCHR (2014a),

www.ohchr.org/EN/Issues/ESCR/Pages/WhataretheobligationsofStatesonESCR.aspx, 10 May 2014.

¹²¹ Ibidem.

¹²² Vandenhole (2013), p. 626.

Nevertheless, even though states may realize ESC rights progressively, they further have five areas under which they have to take immediate action, irrespective of the resources they have available¹²³:

- elimination of discrimination;
- economic, social and cultural rights not subject to progressive realization; obligation to 'take steps';
- non-retrogressive measures;
- and minimum core obligations.

With that, progressive realization does not declare states 'carte blanche', but it rather means they immediately have to take steps in order to realize ESC rights as impetuously as possible and the process under which prioritization is decided needs to be participatory by all stakeholders and transparent and core obligations such as adherence to the minimum essential levels of the rights cannot be neglected in any situation.¹²⁴

Non-retrogressive measures further presume that such measures are not tolerable as the Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment No. 3 on the Nature of State Parties Obligations states¹²⁵:

"..any deliberately retrogressive measures [in relation to the realisation of the rights under the ICESCR] would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources."

Interpreted by the UN Independent Expert on Human Rights and Extreme Poverty, this means any measure that implies a step back in the level of protection accorded to the rights in the ICESCR as a consequence of an

¹²³ OHCHR (2014c), www.ohchr.org, 10 May 2014.

¹²⁴ Vandenhole (2013), pp. 626-627.

¹²⁵ CESCR, General Comment No 3, 1990, E/1991/23.

intentional decision by the State, including an unjustified reduction in public expenditures devoted to implementation of Covenant Rights with an absence of adequate compensatory measures aimed to protect the injured individuals.¹²⁶

When it comes to austerity measures though, exactly this question of interpretation comes into play, as the financial crisis has made it clear that there is no conceptual explicitness about progressive realization, permissible limitations and retrogressive measures. What was suggested though in literatures is to deal with this question from the perspective of progressive realization, rather than that of limitations,¹²⁷ as was also taken from the CESCR in an Open Letter of May 2012.¹²⁸ In it, the Committee acknowledged adjustments that may be necessary to overcoming the crisis, but highlighted the following requirements¹²⁹:

1. Policy only temporarily covers the period of the crisis;
2. The policy is necessary and proportionate;
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 marginalized 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.¹³⁰

The core content of rights has been explicitly incorporated in concluding observations, in particular concerning marginalized and disadvantaged

¹²⁶ Nolan (2011), www.opendemocracy.net, 12 June 2014.

¹²⁷ Vandenhole (2013), p. 627.

¹²⁸ CESCR/48th/SP/MAB/SW, 16 May 2012.

¹²⁹ *Ibidem*.

¹³⁰ Vandenhole (2013), p. 628.

groups, to which the poor and children are counted, meaning poor children belong to this category.¹³¹

The CRC Committee on the opposite has not taken any explicit position on austerity and retrogressive measures, but has indirectly introduced a budgetary minimum floor by asking Belgium to define budgetary lines for disadvantaged children in need for affirmative social measures and to ensure that those budgetary lines are protected even in situation of economic recession. While child poverty can only be qualified as children's rights violation to the extent that acts or omissions can be attributed to a state and the clause of progressive realization makes the obligations fuzzy and loose and certain measures justifiable with regard to limited availability of resources, retrogressive measures require very careful justification by the state and can never affect the minimum of children's rights.¹³²

Intrinsically, there is a strong presumption of impermissibility of any retrogressive measures pertaining to rights such as education and water and the right to work. Thus in relation to the justification of retrogressive measures it was argued that they are justifiable where a state can show that the retrogressive measures are necessary to achieve equity in the realization of the right or a sustainable basis for adequate realization of the right. This justification though, can only be applied with caution to measures leading to depriving marginalized groups of access to basic services such as children.¹³³

Even though the principle of progressive realization further depends on the resource availability, a state cannot escape the obligation to adopt an action plan justified on a lack of available resources, especially since resources in this context reckon resources both within a state and those

¹³¹ Ibidem, p. 628.

¹³² Ibidem, pp. 628-629.

¹³³ Chenwi (2013), pp. 745-746.

available through international assistance and co-operation (internal and external resources).

Moreover, the term 'resources' does not merely refer to financial or human resources, but also implies information and technology, that can aid to realize ECSR.¹³⁴

Basically thus, the CESCR has observed that the obligation to use the maximum of available resources qualifies states to actively seek and receive resources offered by the international community especially in difficult situations, whether or not they are state parties to the ICESCR, which again must be allocated to priority sectors. Also the failure to use aid or assistance so amounts to a violation of this obligation to take steps to the maximum of its resources towards the progressive realization of ESCR rights.¹³⁵

As a response to the public deficits that have been enlarging since the beginning of the economic crisis, governments now try to mount deficits with austerity measures and drastic reductions in public expenditure. These austerity measures though may entail rapid decreases in standards of living, especially when such cuts are undertaken in areas of public services and social protection, while unemployment rates have risen dramatically.¹³⁶

For those reasons, discussions have been surrounding this issue on whether austerity measures are potentially violations of the legal obligation of states parties to the ICESCR we discussed above and an adverse impact on the vulnerable groups. It is also argued that as austerity measures are a disincentive to economic growth in a more general sense, thereby they already hamper progressive realization of ESCR.¹³⁷

¹³⁴ Ibidem, p. 749.

¹³⁵ Ibidem, pp. 752-753.

¹³⁶ OHCHR (2012), www.ohchr.org/EN/NewsEvents/Pages/AusterityMeasures, 12 June 2014.

¹³⁷ Ibidem.

For those reasons, countries such as Spain where social spending are leading to stark retrogressions in health and education which hinder the well-being of vulnerable sectors, the CESCR calls upon those countries as a reminder that basic human rights do not become 'optional' in this context of the economic crisis. If such reductions are undertaken, states are moreover obliged to properly assess the possible impacts on vulnerable sectors such as children ensuring that the measures do not worsen the situation any further and to demonstrate that an exhaustive examination of all alternatives had been undertaken and therefore arise as a solution of last resort. This again underlines how retrogressive measures are not allowable.¹³⁸

Nevertheless, there seems no doubt that many aspects of austerity measures constitute such retrogressive measures as they entail reductions in funding for public goods and services related to the satisfaction of the Covenant rights, for instance limiting housing or family benefits which hold clear implications for the reduced enjoyment of the right to social security (ICESCR Art. 9) or the right to an adequate standard of living (Art. 11 (1) ICESCR). In many countries though, those backwards steps are not justified due to a lack of government engagement in an analysis of the human rights impact of the measures or in other words a proper human rights assessment. But how did governments then get away with the argument that their austerity measures have received the 'most careful consideration' when based on the above they certainly shouldn't?¹³⁹

Measuring States' Obligation to Fulfilment

All this, shows clearly the problematic with regard to the implementation in practice and a review of the obligation of non-retrogressive measures. As we have seen before, indicators exist with regard to child poverty, but neither do they portray directly the implementation of children's rights nor

¹³⁸ Center for Economic and Social Rights (2012), www.cesr.org, 12 June 2014.

¹³⁹ Nolan (2011), www.opendemocracy.net, 12 June 2014.

states' obligations fulfilment. Scholars have thus suggested indices that focus on state obligations rather than on the sole enjoyment of rights to capture progressive realization of human rights subject to maximum available resources.¹⁴⁰

Development policies are designed to achieve a number of specific goals, but how these goals are defined does have profound implications for the types of policies pursued. Assumed that the sole metric of development in the area of child poverty is GDP per capita and the ultimate goal of policy makers is to increase GDP growth, fundamental human rights of children can easily be violated in the undertaking of pursuing this goal.

Moreover, as discussed in the section on child poverty indicators, GDP per capita, even though often used as a metric, is anyhow a profoundly inadequate proxy for the issues of development most relevant for children's lives, including access to adequate food, drinking water and health care and education opportunities.¹⁴¹

Despite the problem of indicators, another concern, relates to the problem of how to determine what would be a reasonable pace of progress in the light of available resources.¹⁴² Monitoring the fulfilment of human rights obligations becomes hence extremely complicated, but should not form an excuse to not even attempt to do so.

We know that human rights are legally secured by international and national law (at the core of all human rights obligations is the principle of non-discrimination), human rights carry correlate obligations on the part of the duty bearer and the obligation of human rights fulfilment of CESCR is

¹⁴⁰ Fukuda-Parr, Lawson-Remer, Randolph (2008), Abstract.

¹⁴¹ *Ibidem*, p. 1.

¹⁴² Chenwi (2013), pp. 759-760.

contingent on available resources.¹⁴³ Drawing from this, are a few implications when it comes to examination of fulfilment of obligations.

Goals of development policies in the area of children's rights are grounded in a strong normative framework, supported by international law as well as the consensus of the international community on children's rights; the promotion of human rights fulfilment is a worthwhile end goal in itself thus. Secondly, it is required that all people are treated as ends in themselves and not merely as means to an end, meaning the fundamental right of one person cannot be sacrificed to improve the condition of another. Last, governments have the duty to protect, promote and fulfil the human rights of people and with that, attention is not only put on what must be done but also on who is obliged to do it. On this basis, we see that progressive realization and the improvement of human rights cannot be merely measured with the same tools of the mostly used conventional development outcome indicators in assessment of state conduct and accountability.¹⁴⁴

An alternative may therefore be an index focusing on state obligation for progressive realization of ESCRs, ranking countries by measuring the relationship between the extent to which a population enjoys those rights and the resource capacity of the state to fulfil ESCR obligations. Nevertheless, while such first attempts to create such a measure subsist, nowadays, indicators are still often events-based or outcome indicators specific to a given location and point of time or specific issues which do not permit comparison across countries or time.¹⁴⁵

This is were also structural indicators that reflect the adoption and ratification of legal instruments as well as mechanisms necessary for the facilitation of the realization of the children's rights provisions and process indicators measuring the effort made by a state to implement these

¹⁴³ Fukuda-Parr, et al. (2008), pp. 1-2.

¹⁴⁴ Ibidem.

¹⁴⁵ Ibidem, p. 3.

structural provisions come into play. As they are often more progressive in nature they may help to measure progress towards particular goals over time. With regard to an adequate standard of living or education, it is still the outcome-based indicators that are the focal point, measuring whether the right has been realized and to what extent.¹⁴⁶

Overall, outcome indicators often may merely measure the right-holder's (non-)enjoyment of rights, not though the duty incumbent upon the duty bearer, e.g. the state.¹⁴⁷ While there might also be pitfalls to a composite index that would rank countries (such as arguments that human rights advocacy should focus on specific issues at the country level and that rankings could be politically explosive and could be taken up to oversimplify human rights challenges or the fact that it does not solve the problem of what to measure and how), a more coherent quantitative measurement tool of human rights fulfilment is needed for decent state monitoring and accountability assessment.¹⁴⁸

With the slight ambiguity and argumentation scope of the concept of progressive realization, it becomes more than difficult to decree whether non-compliance of a government's obligation is on hand. Often this may depend on arbitrary interpretation and justification ability of the state. Evaluation of human rights fulfilment should therefore rely on both, the enjoyment of rights-holders and the extent of compliance of the obligation of the duty-bearer.¹⁴⁹

Budget and Expenditure Analysis

The monitoring of state budgeting and an assessment of it, in fact would be what would answer whether or not states follow their obligations with regard to budgeting. As was identified by the OHCHR, there are a few

¹⁴⁶ European Union Agency for Fundamental Rights (2010), pp. 21-22.

¹⁴⁷ Fukuda-Parr, et al. (2008), pp. 1-2.

¹⁴⁸ Ibidem, p. 4.

¹⁴⁹ Ibidem, p. 6.

different ways of conducting a budget analysis. Among that the so called static analysis, which evaluates a budget by itself mapping out the allocation of resources for each right and comparing them with the percentage of other allocations. This after all provides at least good indication of government prioritization. As an example of non-compliance, in the field of education this might occur where the budget is allocated to subsidise private schools that target children from middle to high-income households compared with public schools catering low-income sectors of the population, which shows that the governments' priority is not in line with its obligation to pay particular attention to vulnerable and marginalised groups.¹⁵⁰

Comparably, what also exists are more dynamic approaches, where analysis compares the evolution of budgets over time, looking at allocations and different spending areas over different periods. Here an example of non-compliance may be under-spending in an area where obviously gaps in the full realization of ESCR rights can be found, implying the government does not take steps to its maximum of available resources.¹⁵¹

Overall thus, budgets may be analysed based on the national budget allocated to a certain sector, how much attention is paid to sufficiency of the budget, government's priorities in terms of resource allocation, clear strategic lines in the budget for vulnerable and marginalised groups, regressive patterns of social spending and mismanagement of international financial cooperation aid. If for instance, due to the economic crisis, resource allocation into social sectors for children's rights such as education or health services and social protection would be decreased, while budgetary allocations to defence and public security are increased and international aid has been provided, this would amount to a clear breach of the progressive realization obligation for ESCR.¹⁵²

¹⁵⁰ Chenwi (2013), p. 760.

¹⁵¹ Ibidem, pp. 760-761.

¹⁵² Ibidem, p. 761.

Although budget allocation to a specific sector may be an indication of the level of commitment for promoting that sector, this alone cannot be used as reliable information, especially since rights are usually not broken down in the state's budget. For example, the metric of birth registration is a civil right, but may also relate to ESC rights such as health, social security and education.¹⁵³

Violations Approach

While the term 'violation' is not used in the CESCR terminology, it refers to a 'breach' of obligations. The violation approach therewith involves identifying violations that signify non-compliance with obligations, resulting from three different types of violations¹⁵⁴:

- Violations resulting from a state's policies and state action or legislation that may be incompatible with pre-existing legal obligations relating to the deliberately retrogressive measures.
- Violations based on acts or policies that reflect discrimination.
- Violations due to failure to fulfil core obligations.

This approach seems to generalize the concept of progressive realization and was criticised for being punitive instead of facilitative. Anyhow, the violation approach seems even more salient with the adoption of the Additional Protocol to the ICESCR and can lead to enhanced treaty compliance and the enforcement of progressive realisation obligations.¹⁵⁵

Conclusion

We have already mentioned the importance of the obligation to fulfil children's rights and in conclusion to the above discussion this can be of specific relevance for governments' action and work regarding child

¹⁵³ Ibidem.

¹⁵⁴ Ibidem, p. 762.

¹⁵⁵ Ibidem.

budgeting. As was already suggested there can be a whole methodology for budget spending deriving from the legal obligation of governments to fulfil rights such as the following example:

1. Establishing the need for spending more and better for realizing child rights
2. Uncovering the availability of resources for spending child rights (are the overall budget allocations divided in a way that allocates resources to realize the rights of children?)
3. The analysis of whether governments are meeting its budget input obligations (How much is allocated to what programmes or do they target the right people such as the poorest of the poor?)
4. The analysis of whether governments are meeting its budget output obligation (Is output for realizing the particular child socio-economic right increasing, costs falling and quality improving or is there discrimination in access to services?)
5. The evaluation of government's performance to come to conclusions about the extent to which governments are meeting their obligations and making recommendations of where the government must improve in its budget allocations¹⁵⁶

In general, the obligation to fulfil children's rights can include the monitoring of how or whether investment in research takes place, whether concepts or methodologies are defined and developed for impact assessment, for indicators or for child-focused monitoring of budget spending and the entire spectrum of the above discussion can be part of the aspect to fulfil the rights.

As discussed in this chapter, the obligation of states under the CRC already provides a universal template for the development of national policies and strategies affecting children. However, as most international

¹⁵⁶ Save the Children (2010), p. 43.

human rights law, it does represent a legal problem insofar as it is technically binding on State Parties, but its legal enforceability may be much harder and may vary from one member state to another – the problem of promising a lot, but failing to deliver due to a lack of taking children and their rights seriously enough. Basically, its inclusion within the corpus of national or regional fundamental rights instruments and law is what can offer opportunities for its final enforcement, well beyond of what it achieves as a free-standing instrument. It could for instance be directly replied upon before the ECJ to challenge EU measures that are incompatible with the principles of the CRC, if transformed into EU law.¹⁵⁷

While for instance, the EU Commission has acknowledged that for any future children's rights strategy the CRC is identified as its primary influence in this regard (the Commission refers to the CRC on nearly every page of its 2006 Communication and sets out to use the instrument more strategically to audit EU measures), the CRC can still be incorporated more meaningful into EU, national or any other regional decision-making process to avoid discrepancies in its implementation and uncertainty in state compliance.¹⁵⁸

As for now though, at international level the UN has no power to secure compliance with its treaty law and there is no police force to bring those state parties into line that do not take their children's rights obligations seriously or are on the way to undertake retrogressive measures in the light of the economic crisis, nor is there any formal means by which binding international obligations can be translated into justiciable claims at national or regional level.¹⁵⁹

In the above chapter the role of states towards continuous improvement and realisation and the forbearance of retrogressive measures regarding ESC rights which onward relate to child poverty became clearer. In order to

¹⁵⁷ Stalford, Drywood (2002), p. 204.

¹⁵⁸ Ibidem, pp.199-200.

¹⁵⁹ Kilkelly, (2002), p. 185.

fulfil their obligation towards children, states have a number of measures they can undertake to fulfil children's rights. While not all of them have to rest upon fiscal resources, most measures are fulfilled on a financial level and an arrangement of a state's budget and public expenditure into different areas of relevance. The next section will elaborate on two countries and the different austerity measures and their aftermath on disposable income undertaken in them.

Case Study

Case Study

Introduction and Methodology

This last chapter is meant to now transfer the hypothesis we tried to answer in the previous chapters into practice and try to find the link between this theoretical exploration and reality. Most importantly, the following country examples can help to find out how much impact many of the austerity measures have on family and children's income and how much effect already small changes in a state's budgeting may have. Income is after all an important indicator used in practice to define poverty and child poverty, but we will also discuss drawbacks of using this indicator as a reliable definition for child poverty.

In order to get into real-life practice, two different countries will be analysed in this following section – Estonia and the United Kingdom. This review will be based on information in the working paper 'Austerity Measures Threaten Children and Poor Households' by authors of the UNICEF Policy and Practice Division in 2011 which was meant to support and facilitate the work of UNICEF and to exchange knowledge and stimulate discussion. The publication updated on an earlier UNICEF working paper on 'prioritizing expenditures for a recovery for all' and utilized data published by the IMF over a period of 12 months.¹⁶⁰ The case will further and primarily be based on a study by the Athens University of Economics and Business and the Institute for Social and Economic Research published at the 3rd General Conference of International Microsimulation Association in Sweden on modelling the distributional effects of austerity measures and on considerations of issues for comparative analysis of the micro-level effects of budget consolidation policies. This study used the EU

¹⁶⁰ Ortiz, et al. (2011)

microsimulation model EUROMOD on 4 different countries that were regarded to be of different policy mix and fiscal consolidation.¹⁶¹

As we have mentioned many times in the foregoing section, some countries have introduced fiscal stimuli to buffer their populations from the impacts of the crisis and with that helped to keep child poverty as low as possible. Nevertheless, we can also observe countries in which premature expenditure contraction became extremely widespread despite the significant need vulnerable groups such as children find themselves in. It was noted, that some countries have reduced their total expenditure by nearly 3% of the GDP during 2010 – a number that may not seem high, but in fact amounts to an enormous reduction of capital that would be of high value for the populations in need as the IMF reports have shown.¹⁶² For instance, it was found that a reduction in the government deficit of 1% in GDP already results in an increase of 0.3 percentage points in the unemployment rate.¹⁶³

Obviously, questionable is if all of the austerity measures portray means that follow the CRC or the ICESCR and adequately protect children and poor households – a question that is hard to answer as we have already realized in theory, but may become more solvable in step with actual practice.

Two countries will be peered more carefully in order to understand the effects of the measures undertaken – Estonia and the United Kingdom. Estonia was the country which was worst hit by the crisis in the EU in terms of reduction in GDP and the UK comparatively saw a reduction of around the EU average with a large degree of child related cuts. Certainly the degree of fiscal consolidation varies and so does the policy mix chosen to achieve it.¹⁶⁴

An area of consideration is what reference period to consider for the changes in government spending, as in some cases measures have been

¹⁶¹ Leventi, Levy, Matsaganis, Paulus, Sutherland (2011)

¹⁶² Ortiz, et al. (2011), p. 1.

¹⁶³ Morss, (2012).

¹⁶⁴ Leventi, et al. (2011), p. 2.

introduced within a single year, in other cases though some have been announced but won't be fully implemented until 2014/2015. An issue may also be that temporary fiscal simulation measures may overlap austerity measures. The question therefore is whether to consider the starting point as the pre-crisis policies ignoring the effect of introducing and then abolishing stimulus measures again or whether to treat any return to the pre-crisis status quo as part of the austerity package.¹⁶⁵

Generally, the IMF verifies two different phases of government spending patterns since the beginning of the crisis and thus also the following analysis will be drawn separately from those phases. During Phase I most developing countries moved swiftly to introduce fiscal stimulus packages and boost spending. In Phase II as from 2010 onwards, however, most governments started to scale back stimulus programs which depicts a trend that is likely to gain pace in 2014.¹⁶⁶

In the case of Estonia, the austerity measures were introduced in 2009 and this policy regime is thus compared with that for 2008. In the UK the changes applying in 2011 (some introduced in 2009) are compared with those that applied in 2009. The differences obviously depend on different factors including the timing of the national budgetary reactions to the economic recession.

Certainly, indirect or second order effects may have to be taken into account as well, but the underlying study did not attempt to model any behavioural or macro-economic effects. For example, households facing income or job losses may adapt their behaviour to compensate, at least to a part, for the changes in circumstances, when household members work longer hours or increase their labour supply in other ways. The issues as we can see is surely to capture the full effects of the current crisis on households and children, but the austerity

¹⁶⁵ Ibidem, p. 3.

¹⁶⁶ Ortiz, et al. (2011), p. 2.

measures alone have enough effect even under the assumption that other things remain unchanged.

Based on the EUROMOD model, which simulates tax liabilities and benefit entitlement for the household population of EU member states, austerity measures could be simulated for both countries, Estonia and the UK.¹⁶⁷

Estonia

When Estonia was hit by the economic crisis, the government was rather late to realize the extent of it and react to those economic changes meaning that in terms of tax-benefit policies and concessions were made more generous still. Most notably was this in the parental benefit which is paid mostly to mothers providing compensation equal to 100% of the previous earnings while on maternity leave and was extended from 455 days to 575 days. Other smaller scale increases took place for the social assistance and additional childcare leave for fathers.

In 2009, however, the government started introducing austerity measures to increase revenues and limit expenditure.

Additional childcare leave for fathers was abolished, compensation of study loans was abolished, sickness benefit was reduced, the eligibility for dental care was narrowed and severance pay was reduced. Eligibility conditions for income tax child allowance was narrowed, the abolition of child school allowance and the narrowing of eligibility conditions for childcare allowance, an increase in the standard rate of VAT from 18% to 20%, public sector pay cuts, an increase in the minimum level of pension and health insurance contribution were all measures effecting the disposable income of households, parents and children in Estonia.¹⁶⁸ The table below gives a listed overview of all the measures.

¹⁶⁷ Leventi, et al. (2011), pp. 4-5.

¹⁶⁸ Ibidem, pp. 6-7.

Increase in employer and employee unemployment insurance contribution

Increase in minimum levels of pension and health insurance contributions

Suspension of credited contributions to the 2nd pension pillar

Narrowing of eligibility conditions for income tax child allowance

Abolition of tax deduction for certain expenses

Abolition of child school allowance

Narrowing of eligibility conditions for childcare allowance

Freezing of minimum pension

Standard rate of VAT increased for 18% to 20%

Freezing of minimum wage

Public sector pay cuts

Table 4: Austerity measures introduced in Estonia in 2009¹⁶⁹

In fact, austerity measures seem to aggravate even further in the years after, when the subsistence and single parent allowances paid in the first semester of 2012 amounted to 12 million euros which is 13% less than for the same period in 2011, which is partly due to the fact of the above mentioned increase in strictness for eligibility and fewer people were eligible to receive allowances.¹⁷⁰

United Kingdom

For the UK austerity measures introduced between 2009 and 2011 were simulated with a distinction between measures that were part of 'business as usual' and an exclusion of changes that were due to happen anyway. Apart from increases in direct taxes on income and a reduction in personal allowance, the family element of the child tax credit was withdrawn faster from higher-income families than previously, the baby element of child tax credit was removed, the family amount of the child tax credit was frozen, the childcare

¹⁶⁹ Ibidem, p. 7.

¹⁷⁰ Eurochild (2007), p. 7.

addition to the working tax credit was reduced from 80% to 70% and the child benefit rates were frozen.

A few measures, as mentioned above were left out in the simulation as they are judged to be not austerity measures but measures and policies that would have occurred despite the economic crisis. Certainly though, as also mentioned by the authors of the EUROMOD simulation, what measures to perceive as austerity measures is difficult and may be debatable and is somewhat subjective. In the period of 2012 and 2013, child benefits rates remain frozen, child-benefits are removed from high-rate taxpayers and an increase in the standard VAT from 15% to 20% is undertaken.¹⁷¹ Again, the following table lists all the measures.

Increase in all employees' and employers contribution rates of one percentage point

Introduction of a 50% tax band on incomes over L 150,000 per year

Abatement of the personal allowance by L1 in every L2 of taxable income over L 100.000 per year

Withdrawing the family element of the Child Tax Credit (CTC) from higher-income families at a faster rate and from a lower threshold than previously

Increasing the rate at which tax credits are withdrawn from 39% to 41%

Removing the baby element of the CTC in 2011

Working Tax Credit (WTC)/CTC first threshold frozen and second threshold reduced in nominal terms

Basic amount of WTC/CTC frozen

Childcare addition to WTC reduced from 80% of costs to 70%

¹⁷¹ Leventi, et al. (2011), pp. 10-12.

Child Benefit rates frozen

Freezing of savings credit maximum payments within Pension Credit

A real increase in the deductions from benefit

Increase in standard rate of VAT from 15% to 20%

Table 5: Austerity measures introduced in the UK in 2009¹⁷²

Important to mention is that many more measures took place that effect employees, housing reforms and the general income of households, but may not directly affect budgeting for children or child programmes but certainly may affect the general income of parents and thus children.

Similarly, also in 2012, the UK has seen major tax credits and benefits changes. Child benefit rates have remained frozen and will continue to do so for the next two years at least. Couples with children are now required to work at least 24 hours a week rather than 16 to be eligible for the WTC. In 2013, the child benefit will be withdrawn from households above a certain income and the major structural reform of 'Universal Credit' was introduced, replacing the main existing benefits with one integrated system and there are fears that some people are now worse off in work and struggling to manage their finances, since people are left to deal with a much more complex benefits system now.¹⁷³

The fact, that child benefits have been frozen for three years means that they will fall in value and child tax credits and other programmes designed to protect children have been cut back to a large extend. According to predictions, the prospect is that the progress that was made in the years before the crisis to bring down child poverty will be thrown into reverse and expected to reach 24% by 2020 compared to the target figures of 10% and would mean a return to the

¹⁷² Ibidem.

¹⁷³ Eurochild (2007), p. 8.

relative child poverty levels of two decades ago, as illustrated in the figure below.¹⁷⁴

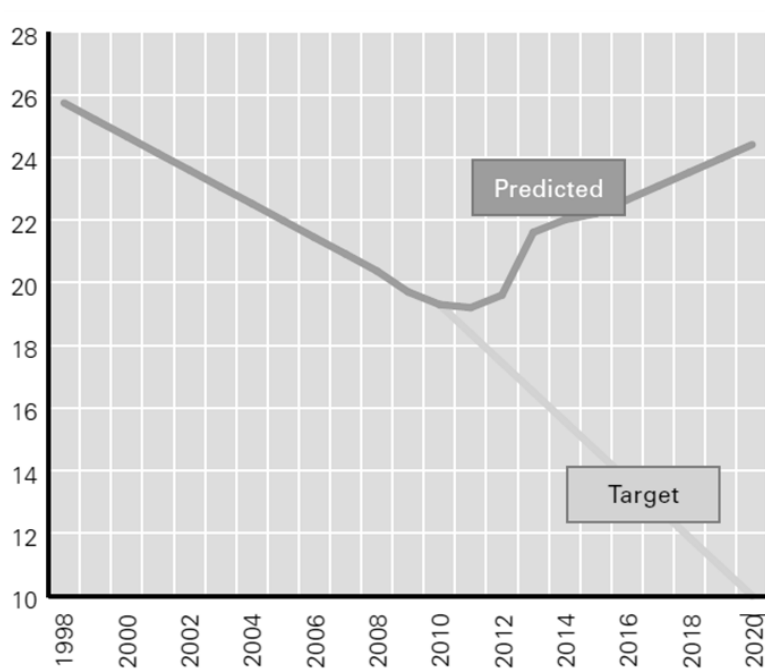


Figure 5: Predicted Child Poverty UK

Even since those forecasts were made, the commitment to increase child credits by more than the rate of inflation in 2012 and 2013 were abandoned by the government and it was said that this decision alone is likely to trigger another 100,000 children to fall below the relative poverty line.¹⁷⁵

The Potential Risks of the measures

Grouping up the austerity measures in the two countries, we can summarize the policies in the following way¹⁷⁶:

- wage bill cuts of salaries of education, health and other public sector workers,

¹⁷⁴ UNICEF (2012), pp. 4-5.

¹⁷⁵ Ibidem, p. 5.

¹⁷⁶ Ortiz, et al. (2011), p. 5.

- eliminations or reductions of any kinds of subsidies, including for basic food items and the increase of consumption taxes on basic goods
- rationalizing social protection schemes by reforming pensions, child benefits or social safety nets.

Many of them are quite straight-forward and self-explaining in that they reduce a household's income and thus risk an increase in child poverty. Some of the austerity measures though may better be explained, to understand why and how they may affect children and are thus taken into account, even though they may not seem to directly affect children.

Wage Bill / Salary Cuts

Wage bill cuts do have the risk to translate into reduced salaries or erode in real value and hiring freezes, employment retrenchment and payments in arrears can adversely affect the delivery of basic social services particularly in high poverty areas and vulnerable populations. Since low pay is a factor behind absenteeism and brain drain, public sector employees such as teachers, medical staff, and child protection workers may not be protected and thus make safeguarding child-related services more difficult.¹⁷⁷

Increasing Costs of Basic Goods and Taxes

Tax policies that increase the cost of basic goods have the same effect as removing subsidies. Increasing consumption-based taxes shifts the tax burden to families in the bottom income quintiles of society, contrary to progressive taxes such as income taxes and may even be regressive since it does not discriminate between high-income and low-income consumers and often have a disproportionate negative impact on poorer households.¹⁷⁸

¹⁷⁷ Ibidem, pp. 15-16.

¹⁷⁸ Ibidem, pp. 18-19.

Reforming or Limiting Social Protection, Child Benefits and Pension

In reforming social protection schemes, effects of further excluding marginalized children and their families may be inherent. The current practices of targeting by income or consumption poverty do not adequately take into account other dimensions of poverty, such as access to schools, clean water, health facilities, etc. As a result, the children and their families may meet the minimum criteria for benefits, but remain vulnerable to dropping out of school, malnutrition and mortality due to deprivations of a safe and enabling environment. Thus again, the importance of targeting criteria beyond consumption or income poverty becomes visible.

Last, for poor households, having an older person at home who receives a pension is an asset since it portrays a source of income to sustain the basic needs of the whole family, including children. Moreover, old-age transfers serve as cash injections to rural economies that have shown to have a positive impact on local development.¹⁷⁹

Fiscal Consolidation in Numbers

The extent of the above fiscal consolidation was measured as a proportional reduction in mean disposable income and amounts to 1.4% in the UK and 2.8% in Estonia. It was found that in the UK the major component for this disposable income reduction is the increase in income tax, in Estonia increases in social insurance contribution and reductions in credits are most important. Exactly those types of measures used for fiscal consolidation will have an impact on the distributional consequences of the measures.

Even though, the rich have shouldered most of the austerity measures, (63% of the overall burden in the UK and 25% in Estonia), the contribution of lower income households to the fiscal consolidation effort is not negligible as 8% in Estonia and 3% of the measures are compromised by low-income

¹⁷⁹ Ibidem, pp. 17-18.

households. E.g. households in Estonia are thus left with 121 € worse off compared to 616 € for the richest decile. By splitting up the burden of the measures into the different types of households, it was further found, that in both Estonia and the UK it is households with children that tend to lose more. In Estonia in particular, the contrast between the position of children and the elderly is striking, especially towards the bottom of the income distribution.¹⁸⁰

Based on these findings, and the reduction in income at the bottom of the income distributions we can expect poverty to rise if a fixed poverty threshold is used. However, as we have discussed in a previous section in the thesis on poverty thresholds, if the poverty threshold is allowed to shift with median income (median income declined by 3.1% in Estonia and 0.6% in the UK), it is not clear if by numbers what to expect in terms of relative poverty risk after the introduction of the measures. If using a fixed poverty threshold, the poverty risk is rising of around 1.3% in Estonia and marginally in the UK.

Conclusion

Concluding thus, while the largest bulk of the austerity measures is shouldered by higher income groups, in relative terms (as a proportion of their income) lower income groups suffer a greater income loss and households with children lose more than households in general in both countries. Further, acting on the assumption of a fixed poverty threshold, the risk of poverty does increase.

One large limitation is surely the assumption that income is a proper indicator for measuring the risk of child poverty. As we have briefly addressed in the previous chapters, there are a number of concerns beset in this assumption, as income does not always reflect the real level of resources available, as a family's economic capacity also depends on savings and debts and house values or any kind of previous earnings. Further, comparing child poverty

¹⁸⁰ Leventi, et al. (2011), pp. 12-14.

among different countries, income measures cannot take the fact into account that certain child services such as health and education may be subsidised or even free in some countries.

Further, there is no method that would convert household income into equivalent individual income and household income cannot reflect that some families may be much more competent in managing income or in prioritizing spending – and we have already addressed this problem before. E.g. the child of a high-income household is not counted as poor, even though most of the household income goes to drugs, gambling or alcohol. The opposite may be true, for a low-income household, in which the parents make enormous sacrifices to ensure that the child has the same advantages as peers. Income in general, may not always be a reliable proxy for the real sources available and it leaves open the possibility that children may be deprived in households that are not income-poor.¹⁸¹ An issue that may even highlight the importance of subjective indicators that are for instance based on surveys among children themselves in which they are asked about their perceptions of poverty.

Also, when comparing child poverty rates in different countries at a percentage of median income only works well if the countries have at least vastly similar levels of income and living costs, since otherwise relative poverty comes to mean very different living standards in different countries. A household with 50% median income in Bulgaria has an actual income of € 1,400 a year, a household in Norway 17,000 a year. People may argue, that this doesn't make a difference, since relative means relative to one's own particular society, but this argument is only fully convincing for wealthier countries of the OECD where living on an income below 50% of the median is a plausible measure, meaning the sense of falling so far behind the norms of one's own society as to be at risk of social exclusion.¹⁸²

¹⁸¹ Eurochild (2012), pp. 9-10.

¹⁸² *Ibidem*, p. 10.

Not included in this simulation were indirect taxation effects and reductions in public sector contribution, but it can be assumed that taking those into account the disposable income would decline further. Further, the simulation had to be based on available information, which may not be entire complete when policy rules were introduced that were not part of the information used.¹⁸³

While the model and simulation conducted may not be free from any limitations and even though, a concrete calculation of the increase of child poverty due to those measures is not existent, the correlation of lower disposable income for households with children and the increased risk of child poverty is based on the above statistics very clear-cut. This practical example for that reason helped us to show and confirm that many of the measures, especially combined and introduced collectively affect children and their families. This study showed, that the disposable income is clearly reduced, most dramatically for poorer and low-income households. While income as we have discussed earlier, is not the only indicator to measure child poverty, it is an indicator widely used as for now and at least gives us an idea of the impact austerity measures may have.

¹⁸³ Leventi, et al. (2011), pp. 14-15.

Final Conclusions and Takeaways

Final Conclusions and Takeaways

Child poverty as being so far-reaching and interrelated with many aspects in a child's life, in itself can be viewed as a violation of children's rights and denies children their very fundamental human rights – whether relating to health, education, the standard of living or any other rights that may be touched. Severe or extreme poverty can cause permanent physical or mental damage in children, can stunt or distort their development and destroys the fulfilment of opportunities, including the roles they are expected to play successively later in life as they get older in family, community and society.

As much research, data and examples we discussed showed, investment in basic social services for children is a key element to ensure success in alleviating poverty. It was also found, how a minimum level of family resources is vital to enable parents to meet the needs of their children. If there are insufficient resources to satisfy children's needs within a household, this may cause other obligations and relationships to crumble and poverty reduction may thus start with children.¹⁸⁴ Especially the case study showed, that changes in public expenditure and benefits towards children and families, but also the indirect reduction of income through taxation and increases of costs have a large potential in affecting the disposable income which still portrays one the most important indicators in defining child poverty or the potential risk of poverty.

That government budgeting can have an effect on child poverty was therefore straightened in the previous chapters and the effect changes in child budgeting may have on children can be extreme, even if not instantly visible, but rather observable in the long-term perspective.

While the obligation of state's to provide an adequate standard of living (Art. 27 CRC) alone is sufficiently strong enough to establish a clear obligation of

¹⁸⁴ Gordon, et al. (2003), p. 1.

state's to end and prevent child poverty, we also had to take other children's rights into account with a focus on ESCR and argue a violation of such caused by child poverty. There is no dispute that the CRC helps to give children the rights to survive, develop, participate and be protected – but the problem is how to put such ideals and aspirations into national practice. The concept of child poverty was thus defined in relation to specific identified rights, such as the rights relating to be free from material and social deprivation as death, hunger, malnutrition and lack of access to clean water, sanitation, education and health care, but also the right to access to an adequate standard of living and the right to social security.¹⁸⁵ Further research could certainly reflect more about civil and political rights which may be just as compromised due to a situation of poverty.

The link between human or children's rights and child poverty certainly became clear and was theoretically discussed. Now, as states do have an obligation under the CRC to protect the rights we identified, retrogressive austerity measures can easily portray a violation of such rights as based on obligations relating to children as vulnerable groups that have to be protected even during financial shortages and clauses under which retrogressive measures are never acceptable. Certainly, not every single retrogressive measure or austerity measure is immediately a violation, but certain circumstances and conditions may play a role in whether or not it is and core obligations and the prohibition to discriminate through austerity measures doubtlessly require a close assessment and balancing of interests of any measure in question.

Nevertheless, as soon as we want to answer the question of a state's obligation to fight poverty and the question whether austerity measures may violate this obligation, we stumbled across two general problems, that hinder this theoretically easy debate.

¹⁸⁵ Ibidem, p. 3.

First, the problem of an existing lack of adequate child poverty indicators that properly measure child poverty beyond merely financial or economic data or the need to make a direct link to children's rights in order to assess the fulfilment and protection of said rights within a country make it hard to evaluate the outcomes of state policies on child poverty.

Second, the difficulty in assessing whether a breach of obligation takes place when it comes to any reductions in the state's expenditures budgeted at children is loose and may be arguable. In other words, the clause of progressive realization may give countries an alibi for reducing certain expenditures into child, family and social programmes.

In order to properly assess the fulfilment of these rights and therewith child deprivation, not only a more accurate measurement of child poverty in many countries would be needed, but also a better way to monitor child budgeting and state expenditure with a real child-rights approach.

In the light of the economic crisis, government policies become more important than ever and the CRC can impose imperatives that can help to overcome particular disagreements about necessary action or retrogressive action by governments¹⁸⁶ and other institutions which become visible in their annual budgets and programmes targeted at children. In any way, more standardized, rights-based indicators, measurement and assessment procedures would be necessary to conduct an objective evaluation of whether states are violating children's rights by letting child poverty increase within their country.

Finally drawing from the entire discussion, already the absence of a proper impact assessment of an austerity measure in the area of child programmes may be a state's abstinence from its obligation to fulfil the effected children's rights. Further and supposedly, if a reduction in child budgeting within a state,

¹⁸⁶ Ibidem, p. 11.

alarmingly limits households' and children's economic resources and increases the risk of child poverty, the government for this reason would in fact violate the state obligation towards child poverty and all the rights that get violated through child poverty. Especially, if the austerity measure constitutes a retrogressive measure in the view of ESCR and particularly harms a vulnerable and marginalized group such as children, who have to be protected even in the light of a state's limited financial resources caused by the economic crisis, the violation would become even more clear-cut.

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Annexes

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Abbreviations

CBGA	Centre for Budgeting and Governance Accountability
CESCR	Committee on Economic, Social and Cultural Rights
CRC	United Nations Convention on the Rights of the Child
CSO	Civil Society Organization
ECSR	Economic, Social and Cultural Rights
IBP	International Budget Partnership

ICESCR	International Covenant on Economic, Social and Cultural Rights
OHCHR	Office of the High Commissioner for Human Rights
UDHR	Universal Declaration of Human Rights
UNGA	United Nations General Assembly
UNICEF	United Nations International Children's Emergency Fund

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Abstract

After the initial government responses to the economic crises where fiscal austerity was characterised by unprecedented monetary but also fiscal policies aimed at guaranteeing and securing social protection while stimulating economic demand to prevent a full-blown depression to spread globally, governments in 2010 have started to focus on austerity policies as emergency measures, that sometimes sidestep regular channels of participation and accepted democratic checks and balances. Many of the austerity measures that may range from expenditure contraction, regressive tax hikes, and reduced labour protection and pension reforms have exacerbated the already severe human consequences of the crisis and affected the whole spectrum of human rights. Many measures were undertaken despite the fact that certain vulnerable populations are especially in need of public attention and assistance during times of economic downturn. Children display one of such a vulnerable group.

With the judicial foundation of the UN Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights, this thesis will take a look at the interplay of fiscal cuts in child budgeting and child poverty and will challenge whether such measures are compatible with the states responsibility to respect, fulfil and protect human rights and in this context, specifically children's economic, social and cultural rights.

While already defining and measuring child poverty portrays an issue that is complex with regard to what indicators and measurements to use, a clear assessment of children's rights implementation may thus be even more difficult. Nevertheless, states have clear core obligations that even in times of resource constraints do not justify every retrogressive measure and still requires them in the light of progressive realization of ESC rights to invest in research, define concepts and develop methodologies for impact assessment for child-focused monitoring of budget spending.

The thesis will theoretically build the foundation to explain what the potential impact of child budgeting on child poverty and hence on children's rights can be and whether governments breach their obligation to respect, protect and fulfil children's rights with such austerity measures.

Nach der anfänglichen Reaktion von Regierungen auf die Wirtschaftskrise, wo finanzielle Sparpolitik noch von beispiellosen Strategien gekennzeichnet waren, die versuchten soziale Sicherheit zu garantieren und gleichzeitig wirtschaftliche Nachfrage zu stimulieren, um eine ausgewachsene Depression global zu verhindern, haben Regierungen in 2010 angefangen, den Schwerpunkt auf Sparmaßnahmen als Notfallplan zu legen, die manchmal den gewohnten Kanäle von Beteiligung und akzeptierter demokratischer Kontrolle ausweichen. Viele dieser Sparmaßnahmen, welche sich von Ausgabenkürzungen, regressiven Steueranstiegen bis hin zu verringerten Arbeits- und Pensionsschutzgesetzen erstrecken, haben die ohnehin schon schwerwiegenden menschlichen Konsequenzen der Krise noch verschärft und den gesamten Rahmen der Menschenrechte beeinflusst. Teilweise wurden Sparmaßnahmen eingeführt, obwohl bestimmte gefährdete Gruppen noch höhere öffentliche Aufmerksamkeit in Zeiten des wirtschaftlichen Abschwungs benötigen würden. Kinder stellen eine solche gefährdete Gruppe dar.

Mit der gesetzlichen Grundlage der UN Konvention über die Rechte des Kindes und dem Internationalen Pakt über wirtschaftliche, soziale und kulturelle Rechte, wirft diese Arbeit einen Blick auf das Zusammenspiel von finanziellen Kürzungen im Kinderbudget und Kinderarmut und wird hinterfragen, ob solche Maßnahmen, mit der staatlichen Verpflichtung Menschenrechte - und in diesem Fall spezifisch wirtschaftliche, soziale und kulturelle Kinderrechte - zu respektieren, zu verwirklichen und zu schützen, im Einklang stehen.

Während schon die Definition und das Messen von Kinderarmut komplexe Probleme darstellen in Bezug auf die Frage, welche Indikatoren und Messgrößen herangezogen werden sollten, ist eine klare Beurteilung von der Umsetzung von Kinderrechten dadurch oft noch schwieriger. Trotzdem haben Staaten klare Kernverpflichtungen, die auch in Zeiten von finanzieller Ressourcenknappheit keine regressiven Maßnahmen rechtfertigen und Staaten im Licht von progressiver Umsetzung von ESC Rechten dazu auffordern, in Forschung zu investieren, Konzepte zu definieren und Methoden zur

Auswirkungseinschätzung für kinderfokussierte Kontrollen von Budgetausgaben zu entwickeln.

Die Arbeit wird versuchen zu erklären, was die potentiellen Auswirkungen von Kinderbudgetierung auf Kinderarmut und damit Kinderrechte sein kann und ob Regierungen ihre Verpflichtung Kinderrechte zu respektieren, umzusetzen und zu schützen, mit solchen Maßnahmen verletzen.