

A human rights-based approach to measuring poverty

Olivier De Schutter

Professor at UCLouvain and SciencesPo
Special Rapporteur on extreme poverty and human rights

January 2022

 **UCLouvain**



Institute for Interdisciplinary Research in Legal sciences (JUR-I)
Centre for Philosophy of Law (CPDR)

La Cellule de recherche interdisciplinaire en droits de l'homme (CRIDHO) a été constituée au sein du Centre de philosophie du droit, centre de recherches localisé au sein de l'Institut pour la recherche interdisciplinaire en sciences juridiques (JUR-I) de l'Université de Louvain, par des chercheurs soucieux de réfléchir le développement contemporain des droits fondamentaux à l'aide d'outils d'autres disciplines, notamment l'économie et la philosophie politique. La CRIDHO travaille sur les rapports entre les mécanismes de marché et les droits fondamentaux, aussi bien au niveau des rapports interindividuels qu'au niveau des rapports noués entre Etats dans le cadre européen ou international.

CRIDHO Working Papers

Tous droits réservés.

Aucune partie de ce document ne peut être publiée, sous quelque forme que ce soit, sans le consentement de l'auteur.

The Interdisciplinary Research Cell in Human Rights (CRIDHO) has been created within the Centre for Legal Philosophy (CPDR), a research centre located in the Institute for Interdisciplinary research in legal science (JUR-I) of the University of Louvain, by scholars seeking to understand the development of fundamental rights by relying on other disciplines, especially economics and political philosophy. The CRIDHO works on the relationship between market mechanisms and fundamental rights, both at the level of interindividual relationships as at the level of the relationships between States in the European or international context.

CRIDHO Working Papers

All rights reserved

No part of this paper may be reproduced in any form without consent of the author

A human rights-based approach to measuring poverty

Olivier De Schutter

Professor at UCLouvain and SciencesPo
Special Rapporteur on extreme poverty and human rights

This paper appeared with minor editorial amendments under the title “A Human Rights-Based Approach to Measuring Poverty” as chapter 1 in Martha F. Davis and Morten Kjaerum (Eds), *Research Handbook on Human Rights and Poverty*, Edward Elgar Publ., 2021, pp. 2-20.

1. Introduction

A human rights-based approach to poverty is one that goes beyond an identification of unfulfilled needs, to address deprivation: it is an approach that seeks to identify the causes of poverty, redefined as the result of a *process* of exclusion and discrimination. As such, it leads to redefine poverty not simply in static terms, as a condition facing the most disadvantaged segment of the population; but also in dynamic terms, as the outcome of societal choices that should be challenged. A human rights-based approach to poverty thus presents a strong relationship to the "social exclusion" understanding of poverty. This understanding contrasts both with an approach focused on incomes, often linked to a "Cost of Basic Needs" (CBN) approach in which an individual is deemed poor if his or her incomes are insufficient to meet the costs of a basket of food and non-food items essential to be an active participant in society¹; and with a multidimensional approach focused on entitlements, both of which see poverty as a condition facing a group of the population, rather than as the outcome of certain policy choices.²

Until the mid 1990s, poverty had been defined in purely monetary terms, as a lack of income. It is now seen, instead, as a multidimensional phenomenon, associated with multiple violations of human rights resulting from the lack of entitlement to a number of goods and services access

¹ M. Ravallion, Poverty lines in theory and practice. Living standards measurement study working paper 133 (Washington, D.C.: World Bank, 1998).

² C. Gore, "Introduction: markets, citizenship, and social exclusion", in C. Rodgers, C. Gore and J.B. Figueiredo (eds), *Social Exclusion: Rhetoric Reality Responses* (Geneva: International Labour Organisation, 1995), pp. 1-2; A.M. Fischer, *Poverty as Ideology. Rescuing Social Justice from Global Development Agendas* (London: Zed Books, 2018), chap. 5.

to which is essential for the enjoyment of rights.³ The Programme of Action adopted at the 1995 World Summit for Social Development states that:

“Poverty has various manifestations, including lack of income and productive resources sufficient 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. It is also characterized by a lack of participation in decision-making and in civil, social and cultural life.”⁴

In a statement adopted in 2001, the Committee on Economic, Social and Cultural Rights defined poverty as "a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights".⁵

These definitions of poverty allow to frame it as both a cause and a consequence of violations of human rights -- whether civil, cultural, economic, political or social rights.⁶ People in poverty not only face numerous obstacles in having access to rights and entitlements (including education, housing, nutritious food, healthcare, and work, but also political participation); they also are caught in a vicious cycle in which those deprivations themselves make it more difficult for them to escape poverty. It is this vicious cycle, with its dynamic dimension, that relates poverty to a process of social exclusion. Persons experiencing extreme poverty in particular "live in a vicious cycle of powerlessness, stigmatization, discrimination, exclusion and material deprivation, which all mutually reinforce one another".⁷

This is well expressed in the 2005 Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies, which describe poverty not only as multidimensional (linked to a range of deprivations), but also as a process in which the various deprivations are "mutually reinforcing", and associated with "stigma, discrimination, insecurity and social exclusion".⁸ These Principles and Guidelines conclude that any effective anti-poverty strategy should be defined as a strategy aimed at improving the protection of the human rights of people living in poverty⁹: "The commitment to ensure respect for human rights will act as a force against all

³ On the notion of the multidimensional understanding of poverty and its value, see in particular Sabina Alkire, James. E. Foster, Suman Seth, Maria Emma Santos, Jose M. Roche, and Paola Ballon, *Multidimensional poverty measurement and analysis* (Oxford: Oxford University Press, 2015); and the report coordinated by A. Atkinson for the World Bank, *Monitoring global poverty. Report of the Commission on Global Poverty* (Washington DC: World Bank, 2017).

⁴ See para. 19, in chapter II, entitled "Eradication of poverty".

⁵ Committee on Economic, Social and Cultural Rights, Statement on poverty adopted on 4 May 2001 (UN doc. E/C.12/2001/10), para. 8.

⁶ Although the emphasis has generally been on economic, social and cultural rights in the discussion of poverty-reduction policies, the poor also face systematic violations of their civil and political rights, including as a result of police brutality, of excessive subjection to pretrial detention, or of a denial of voting rights (see Report of the Special Rapporteur on extreme poverty and human rights presented to the 72nd session of the General Assembly (UN doc. A/72/502 (4 October 2017)). This is one important reason why poverty is connected with powerlessness, and why participation of the poor in the design, implementation, evaluation and revision of the policies that affect them is essential.

⁷ Guiding Principles on extreme poverty and human rights, para. 4. The Guiding Principles were adopted by consensus by the Human Rights Council on 27 September 2012 in resolution 21/11.

⁸ *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies* (Office of the High Commissioner for Human Rights, Geneva, 2005), para. 15.

⁹ For a detailed description of the relationship between poverty and human rights, see *Human Rights and Poverty Reduction: A Conceptual Framework* (Office of the High Commissioner for Human Rights, Geneva, 2004).

these forms of deprivation".¹⁰ This is the only way to break the vicious cycle between poverty and the lack of enjoyment of human rights, thus "connecting the powerless with the empowering potential of human rights".¹¹

In the context of a human rights based approach to poverty reduction, poverty should therefore be defined as a process of exclusion that leads to various forms of deprivation that are mutually reinforcing and thus not only trap individuals into poverty, but also lead to an intergenerational transmission of poverty.¹² The lack of income (monetary poverty) matters of course, but so does the lack of access to the goods or services essential to the enjoyment of human rights, which would otherwise allow individuals to escape poverty: housing, education, healthcare, food, work and social security. Ideally, indicators should be developed to track, for each of these, availability (in relation to needs), accessibility (including economic accessibility, physical accessibility, and non-discrimination), and adequacy, in order to identify deprivations that require the most urgent action. Assessing the adequacy of the goods or services that the poor have access to is both the most overlooked and the most difficult component of such monitoring exercise. Yet, the risk that the services provided to the poor shall be of sub-standard quality is high particularly in areas such as healthcare or education where quality matters as much as volume and may be more difficult to assess by the average user. A qualitative assessment of service provision is therefore essential, to ensure that goods or services benefiting the poor are not of poor quality due both to the inability of the poor, typically, to hold government and service providers accountable, and to the generally purely quantitative nature of the indicators used by administrations to evaluate the delivery of public services.¹³ This problem is made worse, not mitigated, where services are privatized, both because private service providers may be tempted to sacrifice quality for profitability, and because competition in the delivery of basic services to the population -- normally considered in standard economics as a tool to ensure that the "sovereignty of the consumer" will ensure appropriate quality control -- is often far from perfect.¹⁴

¹⁰ *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies* (Office of the High Commissioner for Human Rights, Geneva, 2005), para. 15.

¹¹ Committee on Economic, Social and Cultural Rights, Statement on poverty, cited above, para. 6.

¹² On the inter-generational transmission of poverty, see A.C. d'Addio, *Intergenerational transmission of disadvantage: Mobility or Immobility Across Generations? A Review of the Evidence across OECD Countries*. OECD Social, Employment and Migration Working Papers 52 (2007) (DELSA/ELSA/WD/SEM(2007)7); O. Causa and A. Johansson, "Intergenerational Social Mobility in OECD Countries", *OECD Journal: Economic Studies* (2010); or, for instance, the working paper series of the Chronic Poverty Research Centre (CPRC) on *Asset inheritance and IGT of poverty*, at <http://www.chronicpoverty.org/publications/keyword/Asset+inheritance+and+IGT+of+poverty+series>.

¹³ See in particular World Bank, *Making Services Work for Poor People. World Development Report 2004* (Washington DC: World Bank, 2003); and of course Amartya K. Sen, *Development as Freedom* (New York: Alfred A. Knopf, 1999) (emphasizing the role of political freedoms in holding governments accountable to ensure both that the needs of the poor are recognized and that the services provided meet the poor's expectations).

¹⁴ On the problem of asymmetry of information making it difficult for the average consumer to sanction sellers of goods or service providers, see George A. Akerlof, "The Market for 'Lemons': Quality Uncertainty and the Market Mechanism", *The Quarterly Journal of Economics*, vol. 84, No. 3 (1970): 488-500. This inability for the user to assess the quality of the service provided is one of the reasons why the normal route through which the user may express dissatisfaction, which is to "exit" to another service provider, may provide a very weak check against poor service quality, a limitation Albert O. Hirschman may have been insufficiently attentive to in the important book he published the same year the article by Akerlof appeared: Albert O. Hirschman, *Exit, Voice and Loyalty: Responses to Decline in Firms, Organizations and States* (Cambridge, Harvard Univ. Press, 1970). The other limitation of course is that many services that are essential to the enjoyment of economic and social rights -- such as water, electricity, or certain means of transportation such as railroads, services that are related to the right to water and to the right to housing -- are "natural monopolies": due to the costs of the initial infrastructural investment, it would be highly irrational from the economic point of view to have more than one service provider setting up the infrastructure. The implication is that, in many cases, the user will be facing only one service provider, in a monopoly position in the area concerned.

The following section provides further clarifications as to the components of a human rights based approach to poverty reduction: it considers respectively the principle of accountability, the principle of equality and non-discrimination, and the principle of participation, explaining how taking into account these principles can significantly improve the legitimacy and effectiveness of poverty-reduction strategies. Section 3 then focuses on the role of human rights in guiding poverty measurement, which should not be seen simply as a means to quantify existing levels of poverty in a country, but also as a tool to ensure accountability—which requires not only assessing how many people are poor, but also who the poor are. Section 4 offers a brief conclusion.

2. The role of human rights principles in shaping poverty-reduction strategies

The Guiding Principles on extreme poverty and human rights, which the Human Rights Council endorsed on 27 September 2012 in resolution 21/11, are the most authoritative guidance document on how human rights should be taken into account in the fight against poverty. They provide that States should adopt a human rights-based poverty reduction strategy "that actively engages individuals and groups, especially those living in poverty, in its design and implementation".¹⁵ Such a strategy should strengthen accountability, in three ways: first, by setting clear time-bound benchmarks and associated indicators, it should avoid the constant delaying of action, and the risk that short-term considerations lead to indefinitely postpone the adoption of pro-poor measures; secondly, such a strategy should "clearly designate the authorities and agencies responsible for implementation", ensuring adequate coordination across governmental departments¹⁶; thirdly, it should include "appropriate remedies and grievance mechanisms in the event of non-compliance".¹⁷ Three human rights principles play a key role in the design and implementation of poverty reduction strategies thus conceived.

a) Accountability

A human rights-based poverty reduction strategy sees the adoption of such a strategy not as a voluntary for the State (a matter of choice), but as a legal obligation imposed under its human rights commitments, and for which the State must be held accountable. It follows that the strategy should provide beneficiaries with rights that they may claim: once rights are introduced into the context of policymaking, "the rationale of poverty reduction no longer derives merely from the fact that the people living in poverty have needs but also from the fact that they have rights—entitlements that give rise to legal obligations on the part of others. Thus, the human rights perspective adds legitimacy to the demand for making poverty reduction the primary goal of policymaking".¹⁸

It also follows that the implementation of the strategy should be monitored by independent mechanisms, such as national human rights institutions,¹⁹ but also courts, parliamentary committees and regional and international human rights mechanisms.²⁰ For such monitoring to be effective, the strategy should include appropriate indicators (both quantitative and qualitative), benchmarks and timetables (both sufficiently ambitious and realistic), ensuring

¹⁵ *Guiding Principles on extreme poverty and human rights*, para. 50.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, Office of the High Commissioner for Human Rights (2005), para. 19.

¹⁹ See, referring explicitly to national human rights institutions, the *Guiding Principles on extreme poverty and human rights*, para. 103.

²⁰ *Id.*, para. 107.

that progress shall be achieved in accordance with a specific timeline.²¹ It should also include a participatory dimension, in order to ensure that the poor themselves are involved in monitoring adequate implementation.²²

The indicators to measure progress should reflect that fact that the poor have rights, and that States have duties towards them. In is in that sense that human rights-based indicators are distinct from macro-economic indicators or development indicators that simply register socio-economic facts. Human rights-based indicators include indicators referring to the *commitments* made by the State, or to the legal, institutional and policy frameworks that the State establishes (*structural indicators*); indicators referring to the *efforts* made by the State to ensure that the commitments are effectively implemented, i.e., translated into the adoption of concrete measures and policies (*process indicators*); and finally, indicators relating to the *results* achieved (*outcome indicators*).²³ These three categories of indicators are interdependent and mutually supportive: the structural indicators ensure that the beneficiaries of measures adopted by the State shall have access to remedies (both judicial and non-judicial), and that the States' performances shall be adequately monitored, in particular, by independent bodies (including national human rights institutions); the process indicators ensure that States shall effectively deliver on their promises, in particular by making the required budgetary investments; and the outcome indicators, which present the closest resemblance to development indicators, serve to ensure the policies actually make a difference -- that they are having an impact --, so that misguided or ineffective policies can be revised and improved.

b) Equality and non-discrimination

It is noteworthy that article 2(2) of the International Covenant on Economic, Social and Cultural Rights mentions "social origin" and "property" among the prohibited grounds of discrimination, alongside, *inter alia*, race, colour, sex, language or religion. Indeed, the Committee on Economic, Social and Cultural Rights insists that such grounds should be included in the anti-discrimination framework adopted by the States parties to the Covenant.²⁴ In its General Comment No. 20 on non-discrimination, the Committee reiterated that: "Individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society. A person's social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the refusal of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places".²⁵

The requirement of equality and non-discrimination in combating poverty

Protecting the poor against discrimination on the basis of their social condition is key to

²¹ Guiding Principles on extreme poverty and human rights, para. 104.

²² Guiding Principles on extreme poverty and human rights, para. 107.

²³ See in particular, introducing this framework, the Report by the Office of the United Nations High Commissioner for Human Rights on Indicators for Promoting and Monitoring the Implementation of Human Rights (HRI/MC/2008/3 (6 June 2008)) (explaining in para. 8 that the human rights indicators framework proposed in the report "opted for using a configuration of structural-process-outcome indicators, reflecting the need to capture a duty-bearer's commitment, efforts and results, respectively. In other words, by identifying structural-process-outcome indicators for each attribute of a human right, it becomes possible to bring to the fore an assessment of steps taken by the States parties in meeting their human rights obligations").

²⁴ See, e.g., Concluding Observations on the sixth periodic report of Canada (UN doc. E/C.12/CAN/CO/6 (23 March 2016)), para. 17 (referring to "social condition" as a prohibited ground of discrimination).

²⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination in economic, social and cultural rights (E/C.12/GC/20 (2 July 2009)), para. 35.

removing the structural determinants of poverty,²⁶ because poverty and discrimination are mutually reinforcing: "Discrimination may cause poverty, just as poverty may cause discrimination".²⁷ As regards the homeless for instance, the Special Rapporteur on the right to adequate housing noted more recently that discrimination "is both a cause and a consequence of homelessness": not only may discrimination result in exclusion and increase the likelihood of a person becoming homeless, but in addition, once homeless, one may experience additional discrimination as a result.²⁸ The introduction of an explicit protection from discrimination on grounds of social condition in particular not only has symbolic value, sending a clear message to policy-makers in particular that people may not be treated less favourably because they are poor. It also has institutional consequences, in particular by allowing Equality Bodies (independent institutions tasked with preventing and addressing discrimination and promoting equality) to contribute more effectively to the fight against poverty, alongside the specific contribution other human rights mechanisms can make.

In practice however, the requirement to protect people from discrimination on grounds of social status is, at best, highly uneven,²⁹ and there are in fact few examples of this ground being used effectively. The European Network of Equality Bodies notes that relying on such a ground of discrimination raises specific challenges, both because "the meaning, situation and character of the socio-economic status ground is not understood by many people in the society and even within the equality body"³⁰ and because, in the large majority of cases, discrimination on grounds of social condition (or socio-economic status) is combined with discrimination on other grounds (particularly sex, race or ethnic origin, disability or age), requiring specific methodologies to be developed to address appropriately multiple discrimination.³¹ However, as the Equality Bodies also note, the inclusion of such a ground in anti-discrimination legislation has an essential role to play, not least since poverty is often an obstacle to the filing of discrimination claims, a barrier that the explicit reference to social condition (or socio-economic status) in the mandate of Equality Bodies could help overcome -- since it would provide a clear encouragement to people in poverty to use the tool of filing individual complaints to challenge discriminatory practices.

²⁶ Though this should not be limited to them, such prohibition from discrimination on grounds of social condition should also protect the homeless against the many forms of discrimination they face: see Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 49, b) ("States must combat discrimination, stigma and negative stereotyping of homeless people as a matter of urgency and provide legal protection from discrimination because of social and economic situation, which includes homelessness").

²⁷ Committee on Economic, Social and Cultural Rights, Statement on poverty, cited above, para. 11.

²⁸ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 39.

²⁹ Margaret Thornton, "Social status: the last bastion of discrimination", *Anti-Discrimination Law Review*, 1(3) (October 2018): 1-26.

³⁰ Guidance may be found in the interpretation provided to the prohibition of discrimination based on the term "social condition", which appears in article 10 of the Charter of Human Rights and Freedoms of the Canadian Province of *Québec*: "The definition of "social condition" contains an objective component. A person's standing in society is often determined by his or her occupation, income or education level, or family background. It also has a subjective component, associated with the perceptions that are drawn from these various objective points of reference. A plaintiff need not prove that all of these factors influenced the decision to exclude. It will, however, be necessary to show that as a result of one or more of these factors, the plaintiff can be regarded as part of a socially identifiable group and that it is in this context that the discrimination occurred" (*Comm. des droits de la personne*) v. *Gauthier* (1993), 19 C.H.R.R. D/312 [English summary].

³¹ See in this regard Equinet (European Network of Equality Bodies), *Addressing Poverty and Discrimination: Two Sides of the One Coin*, Equinet Opinion, December 2010, available at: http://www.equineteurope.org/IMG/pdf/poverty_opinion_2010_english.pdf

The potential role of the prohibition of discrimination on grounds of "social condition" could be maximized by relying on an expanded notion of the concept of "social origin" which appears in article 2(2) of the International Covenant on Economic, Social and Cultural Rights.

The Committee on Economic, Social and Cultural Rights understands this expression to refer to the "social and economic situation when living in poverty or being homeless".³² As noted by Angelo Capuano, however, this definition may be unnecessarily restrictive, and thus potentially irrelevant in many contexts where discriminatory treatment is based. First, the "social status" of a person "is reflected more by prestige and esteem rather than merely property status, wealth or economic status".³³ Moreover, "the criteria which the CESCR seems to use to give content to the concept of "social status"—property status, caste, and economic and social status such as homelessness and poverty—are not likely to be bases upon which an employer will commonly have the opportunity to discriminate".³⁴ Instead, he suggests, discrimination most frequently occurs on the basis of family relationships, of the schools the person has attended, or of childhood circumstances: these are instances of "ascribed status", rather than "achieved status", and it is these instances in particular that, in such a context, one should be devoting more attention to.³⁵

The three roles of equality and non-discrimination in combating poverty

The first implication of the prohibition of discrimination on grounds of social condition or property is that (to borrow from the classic definition of discrimination in human rights law) any distinction, exclusion, restriction or preference or other differential treatment that is based on such grounds and which has the purpose or effect of impairing the enjoyment or exercise of human rights, should be prohibited as a form of unlawful discrimination. The reference in article 2, para. 2 of the International Covenant on Economic, Social and Cultural Rights to "property" (in French: "fortune") implies that the poor cannot be treated adversely simply because they are poor: in principle, their underprivileged socio-economic situation cannot be allowed to result in a reduced ability to enjoy human rights.

There is an additional and more interesting implication of the prohibition of discrimination on grounds of social origin or property. Human rights law prohibits any action or omission that disproportionately affects members of a particular group, in the absence of a reasonable and objective justification, thus constituting *de facto* discrimination.³⁶ Thus, regulatory or policy measures that are neutral on their face may be considered discriminatory if they do not take into account the disparate impacts they may have on certain groups of the population, defined for instance on the basis of "property", or income levels. It is this idea that is at the heart of a "positive duty" to consider the impacts on poverty in law- and policy-making, as imposed for instance in Scotland since April 2018 as part of the Equality Act 2010: this duty, referred to as the "Fairer Scotland Duty", imposes on a number of public bodies in Scotland to "actively consider ('pay due regard' to) how they can reduce inequalities of outcome caused by socio-

³² Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination in economic, social and cultural rights (E/C.12/GC/20 (2 July 2009)), para. 35.

³³ Angelo Capuano, "The Meaning of 'Social Origin' in International Human Rights Treaties: A Critique of the CESCR's Approach to 'Social Origin' Discrimination in the ICESCR and its (Ir)relevance to National Contexts such as Australia", 41 *New Zealand Journal of Employment Relations* 91-112 (2017), p. 105.

³⁴ *Id.*, p. 106.

³⁵ *Id.*, pp. 109-110.

³⁶ Human Rights Committee, General Comment No. 18 : Non-discrimination (thirty-seventh session, 1989) ; Committee on Economic, Social and Cultural Rights, General Comment No. 20 : Non-Discrimination in Economic, Social and Cultural Rights (art. 2, para. 2) (UN doc. E/C.12/GC/20), par. 8.

economic disadvantage, when making strategic decisions."³⁷ In practice, this means that decisions such as where to locate a school or a hospital, or how to develop a neighborhood, should be made with the involvement of the local community, and aim at adopting a decision that will reduce, rather than increase, the exclusionary impacts of lack of income -- thus contributing to a more inclusive, less divided society.³⁸

Human rights impact assessments serve to alert policy-makers to the impacts on human rights of the poor of the policies they design and implement.³⁹ This requires that, in the design and implementation of policies, they rely on disaggregated data to measure impacts,⁴⁰ but also that they rely on a diversity of methodologies, including methodologies based on participation of the poor, to assess such impacts by relying on both quantitative and qualitative indicators. A number of recent guidance documents have been presented in recent years in order to support the practice of human rights impact assessment, for instance in the context of trade and investment agreements,⁴¹ of host government agreements negotiated by foreign investors,⁴² or of fiscal reforms or, more broadly, austerity programmes.⁴³ Human rights impact assessments, it should be emphasized, are distinct from other types of assessments, including social impact assessments or sustainability impact assessments with which they present certain similarities. The specificity of human rights impact assessments is that they examine the intended and unintended impacts of policy measures on the ability of the States parties to these agreements to respect, protect and fulfil human rights of people living in poverty. They therefore should be based explicitly on the normative content of human rights, as clarified by the judicial and non-judicial bodies that are tasked with monitoring compliance with human rights obligations. References in impact assessments to development goals or to poverty are therefore not a substitute for a reference to the normative components of human rights.

The requirement of non-discrimination against the poor is especially important where States face an economic or financial crisis and adopt fiscal consolidation (so-called "austerity") programmes in order to reassure their creditors as to the health of their public budgets. In his Letter of 16 May 2012 to the States parties to the Covenant on austerity measures, the Chairperson of the Committee emphasized that fiscal consolidation policies "must not be discriminatory and must comprise all possible measures, including tax measures, to support social transfers to mitigate inequalities that can grow in times of crisis and to ensure that the rights of the disadvantaged and marginalized individuals and groups are not disproportionately

³⁷ See *Fairer Scotland Duty: interim guidance for public bodies* (Scottish government, March 2018), p. 5.

³⁸ One telling example is the relocation of the Monklands University Hospital in North Lanarkshire. After plans were announced for the University Hospital to move, concerns were expressed during consultations that low-income families in the vicinity of the existing hospital might not be able to travel to the new location to seek treatment. A compromise was struck, providing for some primary health care services to remain in Monklands. (Personal communication for Diana Skelton, ATD Fourth World, April 2020).

³⁹ Such a tool is under development within the Belgian Service to Combat Poverty, Insecurity and Social Exclusion: see for details (in Dutch): <http://www.armoedebestrijding.be/themaarmoedetoets.htm>

⁴⁰ *Guiding Principles on extreme poverty and human rights*, para. 52.

⁴¹ See *Guiding Principles on human rights impact assessments of trade and investment agreements*, Addendum to the Report of the Special Rapporteur on the right to food to the nineteenth session of the Human Rights Council (A/HRC/19/59/Add.5) (March 2012).

⁴² *Principles for Responsible Contracts: Integrating the Management of Human Rights Risks into State-Investor Contract Negotiations: Guidance for Negotiators*, Addendum to the Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises (A/HRC/17/31/Add.3) (May 2011). See for a recent overview of human rights impact assessment tools in the context of business activities, Nora Götzmann (ed), *Handbook on Human Rights Impact Assessment* (London: Edward Elgar Publ., 2019).

⁴³ See the Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights (A/HRC/40/57) (19 December 2018).

affected".⁴⁴ The Guiding Principles on Extreme Poverty and Human Rights also emphasize this duty, noting that: "Given the disproportionate and devastating effect of economic and financial crises on groups most vulnerable to poverty, States must be particularly careful to ensure that crisis recovery measures, including cuts in public expenditure, do not deny or infringe those groups' human rights. Measures must be comprehensive and non-discriminatory. They must ensure sustainable finance for social protection systems to mitigate inequalities and to make certain that the rights of disadvantaged and marginalized individuals and groups are not disproportionately affected".⁴⁵ The Guiding principles on human rights impact assessments of economic reforms presented in 2018 by the Independent Expert on foreign debt and human rights provide further guidance as to how the human rights impacts of fiscal consolidation programs, as they are adopted following an economic crisis leading to an increase in the sovereign debt and thus additional borrowing by States, should be conducted.⁴⁶

The equality requirement goes beyond this negative duty. In order to prevent discriminatory results, States may have to provide for differential treatment benefiting certain categories of the population facing systemic disadvantage. This is the third implication of the prohibition of discrimination on grounds of social condition or property: in cases of entrenched discrimination, States may be under an obligation to adopt special measures to attenuate or suppress conditions that perpetuate discrimination. In human rights law, such measures are legitimate to the extent that they represent reasonable, objective and proportionate means to redress *de facto* discrimination and are discontinued when substantive equality has been sustainably achieved.⁴⁷ Indeed, while courts have sometimes considered with suspicion differential treatment benefiting certain underprivileged groups defined by their ethnicity or gender—a suspicion that reflects adherence to a formal understanding of equality, resulting in a restrictive reading of non-discrimination law as forbidding the "sin" of discrimination rather than as a tool to remedy injustices that have their source in society-wide mechanisms of exclusion⁴⁸—, they have been far more open to affirmative action measures taken to improve the situation of those who are economically deprived, since socio-economic condition is not a suspect ground: in fact, such measures are at the very heart of the construction of welfare states, the main purpose of which is to provide support to those who are excluded by the mechanisms of the market.⁴⁹

States therefore should dedicate greater resources to improve the condition of groups who face systemic discrimination.⁵⁰ They also should move up the causality chain, to tackle the underlying causes of social exclusion. Indeed, once it is recognized that "a great deal of poverty originates from discriminatory practices—both overt and covert", it follows that poverty

⁴⁴ See also the Statement adopted by the Committee on Economic, Social and Cultural Rights, *Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights* (E/C.12/2016/1) (24 June 2016), para. 2 (noting, by reference to article 2, para. 2 of the Covenant, that "Low-income families, especially with children, and the workers with the lowest qualifications are disproportionately affected by measures such as loss of jobs, freezing of the minimum wage and cutbacks in social assistance benefits, potentially resulting in discrimination on grounds of social origin or property").

⁴⁵ *Guiding Principles on extreme poverty and human rights*, para. 54.

⁴⁶ See the Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights (A/HRC/40/57) (19 December 2018).

⁴⁷ Committee on Economic, Social and Cultural Rights, General Comment No. 20, cited above, par. 9.

⁴⁸ Kathleen M. Sullivan, "Sins of Discrimination: Last Term's Affirmative Action Cases", 100 *Harvard L. Rev.* 78 (1986).

⁴⁹ This should be nuanced, since not all welfare states seek to achieve equality: some models only aim at protecting individuals from extreme deprivation, without setting wealth redistribution as an objective in its own right. See Gosta Esping-Andersen, *The Three Worlds of Welfare Capitalism* (Princeton: Princeton Univ. Press, 1990).

⁵⁰ Committee on Economic, Social and Cultural Rights, General Comment No. 20, cited above, para. 39.

reduction strategies shall only be fully effective if they also address "the socio-cultural and political-legal institutions which sustain the structures of discrimination", and eliminate "the laws and institutions which foster discrimination against specific individuals and groups".⁵¹ The fight against inequalities, based in particular on social condition, should concern not only the sphere of economic, social and cultural rights, but also the sphere of civil and political rights, since inequalities in access to political influence and socio-economic inequalities are mutually reinforcing.⁵²

The prohibition of discrimination on grounds of social condition or property therefore has three implications: it imposes a negative duty not to impose a disadvantage on those grounds; a positive duty to ensure no measures are adopted that might negatively affect people in poverty; and finally, a positive duty to prioritize people who are facing systemic disadvantage, in particular as a result of poverty. These duties can only be effectively discharged if the impacts on people living in poverty are adequately measured, which requires the disaggregation of general development indicators, *inter alia*, by income.⁵³ However, to arrive at a realistic understanding of the structural causes of poverty as they concern disproportionately certain groups, it is equally important to intersect the impacts on different income groups with the impacts considered in relation to gender, age, race, ethnicity, nationality,⁵⁴ migratory status, disability, geographic location and other characteristics relevant in national context: only such a cross-sectional approach allows us to understand which groups are most likely to fall into poverty, and to identify instances of systemic discrimination calling for the use of tools such as affirmative action.⁵⁵

⁵¹ *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*, cited above, para. 21.

⁵² See Report of the Special Rapporteur on extreme poverty and human rights to the twenty-ninth session of the Human Rights Council (UN doc. A/HRC/29/31 27 May 2015), para. 21; and United Nations Research Institute for Social Development (UNRISD), *Combating Poverty and Inequality: Structural Change, Social Policy and Politics* (United Nations publication, Sales No. E.10.III.Y.1 (2010)). See also, concerning in particular the homeless, the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 21 ("Homeless people are subject to constant intimidation and harassment by authorities and the general public; they are denied access to basic services or places to shower, urinate or defecate; they are rounded up and forced out of cities and relocated to uninhabitable places; they are walked over and passed by; they are subject to extreme forms of violence, including hate crimes and sexual violence; and they are often the subject of vilification").

⁵³ Target 17.18 of the Sustainable Development Goals adopted in September 2015 commits States, by 2020, to "enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts". Although the Target refers to the need to support poor countries so that their statistical offices can function better, high-income countries are far from all systematically disaggregating data relevant to the implementation of the SDGs by the different grounds listed; indeed, some countries explicitly oppose doing so. See also on this issue *Everyone counts: Ensuring a response of official statistics to Sustainable Development Goals consistent with human rights*, Note by the United Nations High Commissioner for Human Rights (UN doc. ECE/CES/2015/35 (8 May 2015)), para. 7 (a).

⁵⁴ Although nationality is not mentioned in SDG indicator 17.18 which has been quoted above, it is recognized as a prohibited ground of discrimination: see, for a recent restatement, the Statement of the Committee on Economic, Social and Cultural Rights on the duties of states towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights (UN doc. E/C.12/2017/1 (13 March 2017)); for the rise of nationality as a prohibited ground of discrimination in international and European human rights law, see O. De Schutter, *Links between migration and discrimination* (Study prepared at the request of the European Commission and the European network of legal experts in gender equality and non-discrimination, 2016).

⁵⁵ For instance, the EU Fundamental Rights Agency EU MIDIS II study (Second European Union minorities and discrimination survey) (December 2017) (<http://fra.europa.eu/en/project/2015/eu-midis-ii-second-european-union-minorities-and-discrimination-survey>) shows that certain groups of children such as Roma children are at a higher risk of poverty and severe poverty compared to children in the general population. More specifically, in five EU Member States data show that more than 90% of Roma children covered by the survey were at-risk-of-

c) Participation

Ensuring the participation of the poor in the design of poverty-reduction strategies is key both to their legitimacy and to their effectiveness. As noted by the Committee on Economic, Social and Cultural Rights, "a policy or programme that is formulated without the active and informed participation of those affected is most unlikely to be effective. Although free and fair elections are a crucial component of the right to participate, they are not enough to ensure that those living in poverty enjoy the right to participate in key decisions affecting their lives".⁵⁶ The Guiding Principles on extreme poverty and human rights provide that "States must ensure the active, free, informed and meaningful participation of persons living in poverty at all stages of the design, implementation, monitoring and evaluation of decisions and policies affecting them. This requires capacity-building and human rights education for persons living in poverty, and the establishment of specific mechanisms and institutional arrangements, at various levels of decision-making, to overcome the obstacles that such persons face in terms of effective participation. Particular care should be taken to fully include the poorest and most socially excluded persons".⁵⁷ Low levels of education, lack of self-confidence, poor access to information, the difficulty to organize collectively, time poverty, and lack of trust in the officials or institutions organizing the consultation are all important obstacles that poor people face in exercising their right to take part in the conduct of public affairs. Yet, ensuring such effective participation is the only way to break the vicious cycle in which poor people are underrepresented in decision-making, so that the policies do not prioritize removing the obstacles they face, resulting in further economic marginalization and, thus, in their political disempowerment.

The Guiding Principles on extreme poverty and human rights also note that anti-poverty strategies and plans of action "should be devised and periodically reviewed through a transparent, inclusive, participatory and gender-sensitive process. The process by which the strategy and plan of action are devised, and their content, should pay particular attention to vulnerable or marginalized groups. States should define and publicize opportunities for participation and information about proposed policy measures should be disseminated widely and in an accessible manner".⁵⁸ Such participation of the poor in the design, implementation, assessment and revision of poverty reduction strategies is certainly not a substitute for ensuring that the poor are protected from any form of discrimination in the exercise of civil and political rights (such as freedom of assembly, freedom of association, freedom of expression, and the right to vote) that ensure accountability and allow participation in the polity in general.⁵⁹ But it

poverty. Furthermore, FRA data has showed that between 16% (Spain) and 48% (Greece) of Roma children were living in households where at least one person went to bed hungry at least once in the preceding month when the data was collected. It is therefore a source of concern that some EU Member States still appear reluctant to collect data based on ethnicity, particularly since the principles of personal data protection, of self-identification and of transparency discussed below should avoid any risk of abuse in the collection and processing of such data for statistical purposes. See on this issue, more generally, O. De Schutter and Julie Ringelheim, *Ethnic Monitoring. The processing of racial and ethnic data in anti-discrimination policies : reconciling the promotion of equality with privacy rights* (Bruxelles, Bruylant, 2010).

⁵⁶ Committee on Economic, Social and Cultural Rights, Statement on poverty, cited above, para. 12.

⁵⁷ Guiding Principles on extreme poverty and human rights, para. 38.

⁵⁸ *Guiding Principles on extreme poverty and human rights*, para. 104.

⁵⁹ As noted by the Special Rapporteur on extreme poverty and human rights, the focus on "participation" could become "a substitute for more concerted and specific efforts to address the particular situation of the poor when addressing each of the civil and political rights in a given community. ... This is not to minimize the importance of participation, but rather to suggest that a more important but neglected dimension is to factor those living in poverty into broader analyses of how voting rights, free speech rights and the like are shaped and implemented in

is key to understand the real obstacles the poor face, and to identify the solutions that are best suited to their circumstances.

The best recent example of the role of participation in improving our understanding of poverty is the Hidden dimensions of poverty research project, co-led by ATD Fourth World and Oxford University, involving 1,091 participants across six countries (including 665 adults and children in poverty), both from the North (France, the United Kingdom and the United States) and from the South (Bangladesh, Bolivia, and Tanzania).⁶⁰ The report was based on a *Merging of Knowledge* methodology (*Croisement des savoirs et des pratiques*), defined as a process in which academics, practitioners (activists, social workers) and people in poverty first build knowledge independently in peer meetings, and then merge these various sources of knowledge (respectively from science, from practice and from the lived experience of poverty) in order to develop new insights into poverty: the process recognizes and values the specific understanding gained for the experience of poverty, and exposes each participant to the knowledge and experience of others "in order to build knowledge that is more complete and greater than the sum of its part".⁶¹ The process led to identify six "hidden dimensions" of poverty. These dimensions are called "hidden" because they go beyond lack of decent work, insufficient and insecure income, and material and social deprivation, which are the more classic forms of deprivation referred to both in the money-metric and in the multidimensional approaches to poverty.

The hidden dimensions of poverty emerge from the hybridation of the knowledge of the three categories of "co-researchers": the academics, the practitioners, and people in poverty. Three of them relate to what the research describes as the *core experience of poverty*, conceptualised as a mix of anguish and agency: they are referred to as "suffering in body, mind and heart" ("experiencing intense physical, mental and emotional suffering accompanied by a sense of powerlessness to do anything about it"); "disempowerment" (defined as "lack of control and dependency on others resulting from severely constrained choices"); and "struggle and resistance" (the "ongoing struggle to survive, which includes resisting and counteracting the effects of the many forms of suffering brought by privations, abuse, and lack of recognition").

The three other dimensions are *relational*: they are referred to as social maltreatment ("people in poverty are negatively perceived and treated badly by other individuals and informal groups", "behaviour towards people in poverty is characterized by prejudicial negative judgements, stigma and blame"), institutional maltreatment ("the failure of national and international institutions, through their actions or inaction, to respond appropriately and respectfully to the needs and circumstances of people in poverty, and thereby to ignore, humiliate and harm them") and unrecognised contributions ("The knowledge and skills of people living in poverty are rarely seen, acknowledged or valued. Often, individually and collectively, people experiencing poverty are wrongly presumed to be incompetent"). The description of these dimensions as "relational" refers to the fact that they result from how people who are not living in poverty affect the lives of people in poverty, either by ignorance or by prejudice. This links these hidden dimensions of poverty with a definition of poverty based on "social exclusion": the idea

order to achieve the desired results" (Report of the Special Rapporteur on extreme poverty and human rights presented to the 72nd session of the General Assembly (UN doc. A/72/502 (4 October 2017), para. 61).

⁶⁰ See R. Bray, M. De Laat, X. Godinot, A. Ugarte, and R. Walker, *The Hidden Dimensions of Poverty* (Montreuil, Fourth World Publications, 2019).

⁶¹ See *The merging of knowledge – People in poverty and academics thinking together*, University Press of America, 2007; and the *Guidelines for the Merging of Knowledge and Practices when working with people living in situations of poverty and social exclusion*, available at: https://www.4thworldmovement.org/wp-content/uploads/2013/05/Guidelines_for_the_Merging_of_Knowledge_and_Practices.pdf. The passage quoted is from the *Guidelines*, at 5.

underlying both is that poverty does not have its source in the failings of the person living in poverty, but rather in the inadequate design of institutions or policies that, for instance, continue to tolerate the intergenerational transmission of poverty -- in some countries, it may take people born in low-income families nine, or even up to eleven generations to approach the mean income in their society⁶² --, to ignore qualifications acquired by practice rather than formally recognized in diplomas, or to undervalue the innovations from people in poverty, particularly the solidarity mechanisms they establish to cope with deprivation.

The *Hidden dimensions of poverty* research illustrates how participation is important not only for the design and implementation of poverty reduction strategies, but also to guide the methodological choices concerning data collection and poverty measurement. Indeed, as noted by the Special Rapporteur on the right to adequate housing, those concerned (such as, among the most marginalized groups, the homeless) "are best placed to ensure that methods of measurement are accurate and inclusive and at the same time sensitive to their circumstances".⁶³ In order to ensure such a participation is effective, human rights mechanisms, including national human rights institutions, should cooperate with national statistical offices, to ensure that the methodologies adopted in a country to measure poverty are adequately informed by the experiences of the poor.⁶⁴ It is to this question of measuring poverty that we now turn.

3. The human rights-based approach to measuring poverty

There are three reasons why an adequate measurement of poverty is essential to the effectiveness of poverty reduction strategies.⁶⁵ First, measuring poverty allows the issue of poverty to remain visible and to be kept on the top of the political agenda: voters shall take notice of the achievements of incumbent politicians if they are provided with reliable figures that allow them to make an informed judgment about the success of the policies that have been adopted. Secondly, insofar as poverty measurement includes a disaggregation of data, it also provides a guide to action: it allows poverty-reduction measures to be better targeted, and it is only if poverty is properly measured and poverty data disaggregated that regulations or policies that might result in worsening inequalities or in socially excluding certain groups can be identified and, where necessary, changed in order to ensure that they do not have such impacts. Finally, poverty measurement and monitoring serve to assess the outcomes of poverty reduction strategies and interventions: an adequate measurement of poverty, taking into account its various dimensions as they relate to the enjoyment of human rights, is therefore also required to ensure that poverty reduction strategies are successful, not simply in reducing monetary poverty, but also in addressing the other dimensions of poverty and, thus, its structural causes. In other terms, poverty measurement is a source of accountability; it is essential to improve the effectiveness of poverty-reduction strategies; and it can improve our understanding about the various mechanisms that perpetuate poverty.

⁶² See OECD, *A broken social elevator? How to promote social mobility* (Paris, OECD, 2018).

⁶³ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 73.

⁶⁴ *Everyone counts: Ensuring a response of official statistics to Sustainable Development Goals consistent with human rights*, Note by the United Nations High Commissioner for Human Rights (UN doc. ECE/CES/2015/35 (8 May 2015)), para. 7 (c) (recommending "facilitating participation of the population, especially disadvantaged and marginalized members of society and other relevant stakeholders in the measurement process. Participation is a fundamental principle of human rights. ... This would require a more institutionalized partnership between official statistics and the human rights community, e.g. through participation of National Human Rights Institutions (NHRIs) or civil society organisations...").

⁶⁵ See United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017) (UN doc. ECE/CES/STAT/2017/4), para. 20.

As regards how poverty is to be measured however, the consensus documents are less explicit. The Guiding Principles on extreme poverty and human rights state:

States should entrust an independent national body with the task of monitoring the quantitative and qualitative aspects of poverty from a human rights perspective, and providing the disaggregated data sets necessary for effective implementation. Information must be collected and processed in accordance with internationally accepted norms so as to protect human rights and ensure confidentiality and respect for privacy.⁶⁶

The 2005 Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies are slightly more explicit in this regard, noting that the identification of the poor consists in two steps: (i) the *definition of the attributes of poverty*, which is highly context-specific, and thus should rely on the participation of the poor, who should assist in listing the basic capabilities the deprivation of which constitutes poverty in a particular society; and (ii) *identifying the poor*, as the group of the population that is deprived of these basic capabilities, a task that the Principles and Guidelines describe as "informationally demanding".⁶⁷ Four key principles should be kept in mind in the design of poverty measurement tools.

a) Measure not only the number of the poor, but who the poor are

The Principles and Guidelines emphasize that "the objective of the exercise should not merely be to come up with a number, such as the percentage of poor people in the population, but to ascertain who these people are and how poor they are" and to identify, within the poor, those who are "especially deprived and marginalized".⁶⁸ This is another reason why the disaggregation of data related to poverty and social exclusion matters in a human rights perspective: in addition to identifying potential instances of discrimination, as discussed above in section 2, it allows to identify *who is poor*, taking into account characteristics such as sex, age, ethnic origin, nationality, disability, or place of residence in particular. This allows more targeted action to be taken towards the groups affected, and serves to identify which interventions shall be the most effective.⁶⁹ It also is a first condition towards understanding the structural determinants of poverty, i.e., the processes of social exclusion that lead to people becoming and remaining poor.

Identifying who the poor are also allows better distinguishing transient poverty (resulting from temporary setbacks that individuals or families may face) from chronic poverty (affecting individuals or families that face permanent obstacles in a life-cycle perspective).⁷⁰ Indeed, it is only by asking who the poor are that statistical offices and other actors can assess whether the poor in year 1 are the same as the poor in year 0 or in year -2. This is an important information to guide policies, since transient and chronic poverty respectively call for very different poverty-reduction approaches. As noted in the *Guide on Poverty Measurement* released by the United Nations Economic Commission for Europe, "Although short spells of poverty are

⁶⁶ Guiding Principles on extreme poverty and human rights, para. 105.

⁶⁷ Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies, cited above, para. 33.

⁶⁸ Id., paras. 35-36.

⁶⁹ See, e.g., Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 65 ("Measuring the extent of homelessness among different groups helps to assess priorities, ensure effective design and implementation of policy responses and determine whether States are meeting their human rights obligations").

⁷⁰ Michael Hoy, Brennan Scott Thompson, Buhong Zheng, "Empirical Issues in Lifetime Poverty Measurement", *The Journal of Economic Inequality*, vol. 10(2) (2012), pp. 163-189.

always unwelcome, they may not threaten subsistence or significantly damage life prospects if individuals and households can reduce expenditure, run down savings or borrow. However, these tactics are unlikely to be sufficient in the long run. Only by using longitudinal data can one understand the processes behind cross-sectional statistics: the events leading individuals into and out of poverty, and the associated impact on their living standards. Longitudinal poverty analysis can also identify ways in and out of poverty, which can help policymakers adopt better safety nets or other inclusion policies"⁷¹.

b) Design specific methodologies to identify the "missing poor"

Measuring certain dimensions of poverty may pose specific challenges, particularly where the groups concerned are difficult to include in surveys covering a sample of the general population.⁷² This is the case in particular for institutionalized people (in elderly care homes, children's homes, and mental health institutions), for undocumented migrants or for homeless people, as well as for street children.⁷³ For some groups, such as street children or irregular migrants, "being identified by government authorities may be threatening",⁷⁴ and this may impede proper data collection. But other factors may also play a role. Data on homelessness, for instance, is scarce in most countries not only because governments may prefer not to be held accountable, but also because of the sheer difficulty of collecting such data. For instance, while the single men who use the social services can be identified and counted, such an approach would be insufficient since many homeless people may not rely on such services: approaching homelessness by collecting data on single men visiting shelters would therefore create the risk of distorting the understanding of the phenomenon, both in its quantitative dimension and in the categories of persons it affects.⁷⁵

Yet, without accurate measurement of poverty across all groups, including those who are insufficiently captured in statistics, there emerges an accountability gap, and the effectiveness of poverty reduction strategies is significantly reduced. The invisibility of certain groups of the population living in poverty or at risk of poverty may lead to certain policies remaining underdeveloped (since the needs shall have been underestimated), or to countries adopting only measures that are *ad hoc*, temporary or short-term, rather than fully addressing the challenge.

Some good practices are worth noting. In Italy, starting in 2011, the Italian statistical office Istat teamed with the Ministry of Education and Social Policy, the Italian Federation of Associations for the Homeless (fio.PSD), and the charity Caritas, to develop an understanding of how many people were homeless in Italy and whom they were.⁷⁶ After the shelters and canteens serving homeless people were identified in 158 municipalities, interviews were

⁷¹ United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017), cited above, para. 81.

⁷² See generally Roger Tourangeau, Brad Edwards, Timothy P. Johnson, Kirk M. Wolter, and Nancy Bates (eds.), *Hard-to-Survey Populations* (Cambridge: Cambridge University Press, 2014).

⁷³ United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017), cited above, para. 75 and paras. 428-432.

⁷⁴ Committee on the Rights of the Child, General Comment No. 21 (2017) on children in street situations (UN doc. CRC/C/GC/21 (21 June 2017)), para. 72.

⁷⁵ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para 70 ("Homelessness among single men living on the streets or using emergency shelters is more easily measured. It is more difficult to measure homelessness among women, children and young people living temporarily with family or friends, or among those most marginalized and precariously housed within informal settlements, who may be altogether left out of census or data collection").

⁷⁶ For this example, see United Nations Economic Commission for Europe, *Guide on Poverty Measurement* (2017), pp. 30-31.

conducted during a one-month period, with the keeping of individual diaries to reduce the risk of double counting of homeless people using multiple services during the month. In total, 50,724 homeless people were estimated to have used at least one of the services (canteens or night shelters) in the 158 municipalities concerned during the November-December 2014 period, which represents about 2.43 people per thousand in the whole population, a small increase in comparison to 2011 estimates; and a larger proportion were homeless since more than three months (83 %) as well as for more than two years (41 %), again in comparison to that reference year. The survey also illustrated that the vast majority of the homeless were men (85.7 %), foreigners (58.2 %), and living alone (76.5 %).

The Italian example shows how the "missing poor" can be better accounted for in poverty measurement efforts. At the same time, an important limitation of this approach is that the study relied on night shelters and canteens: the method was deemed more feasible than by conducting surveys in public spaces (parks) where the homeless may also be found, however it also gives a biased picture of the reality of homelessness, since some homeless people, especially when they are families rather than single, and women rather than men, may not visit shelters nor seek to eat at canteens, relying instead, if they can, on the solidarity of neighbors or the extended family.⁷⁷

Another illustration is provided by the attempt to move beyond the EU surveys on income and living conditions (EU-SILC surveys) in Belgium. One major deficiency of the EU-SILC surveys as they have been practiced so far is that some categories of the population are underrepresented, either because they do not respond or only respond in part to the survey, or because they are "unreachable". Paradoxically perhaps (since the EU-SILC surveys are meant to allow to measure poverty), the rates of non-response may be presumed to be particularly high among the poorest segments and recently arrived migrants, in particular due (for this latter category) to language barriers. Indeed, as regards households who responded in the course of a first survey but did not respond in later rounds, it could be established that the "attrition rate"—the number of households left out from the second round—could be explained by lack of income from employment, low educational status of parents or the residential status of tenant (rather than owner of the dwelling), all characteristics that are closely correlated with socio-economic condition. Moreover, people in poverty move more frequently from one housing to another, which may result in their underrepresentation in longitudinal studies involving successive rounds of surveys for a number of years (as are EU-SILC surveys, at least in part). It is not so much that the poor and those out of employment fear to express themselves out of shame; rather, they distrust the interviewers, they are often discouraged by the complexity of the questionnaires, and they often live in flats or apartments in which the initial contact with the interviewer is by interphone rather than face to face, leading to a higher rate of refusals.⁷⁸ All these factors lead to a significant underrepresentation of poor households' responses in the EU-SILC surveys.

Can these obstacles be overcome to arrive at a better picture of living conditions in Europe? The Belgian Service to Combat Poverty, Insecurity and Social Exclusion launched an initiative in 2010-2012 to improve the representation of the most deprived households in EU-SILC

⁷⁷ See above, fn. 75.

⁷⁸ Of course, the situation is even worse for those who are homeless, especially when they are not accommodated in shelters: see V. Busch-Geertsema, D. Culhane and S. Fitzpatrick, for the Institute of Global Homelessness, *A global framework for understanding and measuring homelessness* (DePaul University, September 2015), p. 27. Available from <https://ighhub.org/sites/default/files/attachments/A-Global-Framework-For-Understanding-and-Measuring-Homelessness.pdf>, accessed on 8 December 2019.

surveys.⁷⁹ Two key recommendations emerge. First, in order to increase the rate of response from these households, the questionnaires should be simplified, and the option should be offered to answer only certain questions; the interviewers should be better trained to support the interviewees in answering complex questions such as those related to income levels; and the more experienced interviewers should identify good practices that could improve response rates, for instance in the way the initial contact is made or in the kind of support provided to the persons surveyed. Secondly, as regards the "missing poor" – people living in institutions, caravan dwellers or homeless people, or undocumented migrants, constituting in total between 2 and 3% of the Belgian population –, surveys complementary to household surveys should be conducted at regular intervals, in close collaboration with the social sector services. The methodology was tested to reach homeless people and undocumented migrants (particularly difficult to reach due to both to language barriers and to their fear of contacts with public authorities). As noted by the team in charge of the experiment, "the fact that this has worked in two target groups that are very hard to reach suggests that it should also work with other target groups, provided the required resources and preparation are envisaged for this".⁸⁰

Fear of social services may be one particularly disturbing reason why poor households are underrepresented in general surveys. Indeed, in addition to the persons who are generally underrepresented (such as undocumented migrants) or even entirely omitted from classic household surveys such as EU-SILC (such as institutionalized people or homeless people), poor families may themselves be reluctant to engage in such surveys, for reasons none other than the precariousness of their living conditions. This may be especially the case in countries where social services may threaten to remove children from their families based on the consideration that their parents are unable to care for them adequately, due to poor living conditions.

The jurisprudence of the European Court of Human Rights offers various illustrations of situations where poor families have been penalized for being poor, as children were placed in institutions or in foster families based on the consideration that their parents were unable to provide them with adequate living conditions. In the case of *Wallová and Walla v. the Czech Republic* for instance, the Court held unanimously that Article 8 of the European Convention on Human Rights (right to respect for private and family life) has been violated on account of the fact that the applicants' five children had been taken into care at the initiative of the local social protection services, whose position the domestic courts endorsed on the ground that Mr Walla did not have stable employment and that his wife, who was unemployed, had not yet complied with the formalities which would have enabled her to obtain social benefits, leading the courts to conclude that the parents had not made sufficient effort to overcome their material difficulties and find a home for their family, and were thus unable to bring up their children properly.⁸¹ In the case of *A.K. and L. v. Croatia*, the second applicant (L.) had been placed, with his mother's consent, in a foster family in another town, on the grounds that his mother had no income and lived in a dilapidated property without heating, and the mother was subsequently divested of her parental rights in respect of L., on the grounds that she had a mild mental disability and was not able to provide proper care to him: the Court unanimously found that article 8 of the European Convention on Human Rights had been violated, since despite the legal requirement and the authorities' findings that the first applicant suffered from a mild

⁷⁹ Ingrid Schockaert (dir.), Ann Morissens, Sebastiano Cincinato and Ides Nicaise, *Poverty between the cracks. Complements and corrections to EU-SILC for hidden groups of poor people*. Research within the context of the AGORA research programme of the Belgian Federal Science Policy Office (BELSPO) and at the request of the Combat Poverty, Insecurity and Social Exclusion Service (May 2012).

⁸⁰ *Id.*, p. 6.

⁸¹ Eur. Ct. HR, *Wallová and Walla v. the Czech Republic* (appl. no. 23848/04), judgment of 26 October 2006.

mental disability, she had not been represented by a lawyer in the proceedings divesting her of parental rights.⁸²

Perhaps even more telling is the case of *Saviny v. Ukraine*, in which the children of the applicants were removed from their home because of the very poor living conditions of the household, leading the authorities to conclude that they were unable to provide their children with adequate care and upbringing: both parents were blind from birth and received only minimal levels of income.⁸³ The Court noted that: "In taking a decision on removal of a child, a variety of factors may be pertinent, such as whether by virtue of remaining in the care of its parents the child would suffer abuse or neglect, educational deficiencies and lack of emotional support, or whether the child's placement in public care is necessitated by the state of its physical or mental health (...). On the other hand, the mere fact that a child could be placed in a more beneficial environment for his or her upbringing does not on its own justify a compulsory measure of removal (...). Neither can this measure be justified by a mere reference to the parents' precarious situation, which can be addressed by less radical means than the splitting of the family, such as targeted financial assistance and social counselling".⁸⁴

These cases illustrate vividly how being poor may lead to a vicious cycle: because a family fears that the social services will recommend removing the children from the household, it may seek to evade contacts with such services, and with administrative agents in general, including with surveyors. This may be one major reason why poor households are under-represented in general surveys, albeit one that is generally overlooked. It may be seen as the reverse of the "service statistics paradox", according to which the poor that are supported by social services (for instance, homeless people that are accommodated in shelters, as opposed to those who live on the streets) tend to be overrepresented in statistics, leading to another distortion in the data that guide poverty reduction strategies.⁸⁵

c) Combine quantitative data with qualitative data

It is largely for the same reasons that, while quantitative data about all groups facing poverty are of course important both for purposes of accountability and to ensure poverty reduction strategies work effectively, numbers alone may not suffice. Such quantitative estimates should be complemented by qualitative assessments of poverty, as experienced by people living in poverty. This was the intuition at the heart of the "Voices of the Poor" project launched in the late 1990s.⁸⁶ It is also a lesson that emerges within the UN human rights systems. Thus, in her 2015 report on homelessness, the Special Rapporteur on the right to adequate housing relied on conclusions of the Institute of Global Homelessness⁸⁷ to underline "the critical importance of qualitative evidence, including, for example, oral testimony, photographs or videos. A human rights-based measurement of homelessness should focus on prevention and on addressing underlying causes, and qualitative information capturing actual experiences often reveals more about how to prevent or solve it than numbers alone. It is also vital to understand the trajectories into and out of homelessness, with longitudinal analysis of how people become homeless, how

⁸² Eur. Ct. HR, *A.K. and L. v. Croatia* (appl. no. 37956/11), judgment of 13 Jan. 2013.

⁸³ Eur. Ct. HR, *Saviny v. Ukraine* (appl. no. 39948/06), judgment of 18 December 2008.

⁸⁴ *Id.*, para. 50.

⁸⁵ G. Tipple and S. Speak, *The Hidden Millions: Homelessness in Developing Countries* (London: Routledge, 2009).

⁸⁶ D. Narayan, R. Patel, K. Shafft, et al., *Can Anyone Hear Us? Voices from 47 countries* (Oxford: Oxford Univ. Press, 1999); D. Narayan, R. Chambers, M.K. Shah, et al., *Voices of the Poor. Crying out for change* (Oxford: Oxford Univ. Press, 2000).

⁸⁷ See V. Busch-Geertsema, et al., *A global framework for understanding and measuring homelessness*, cited above.

long they are homeless and how they escape from it to supplement point-in-time counts".⁸⁸ The Office of the High Commissioner for Human Rights makes a similar point where it remarks that: "For the smallest groups or those invisible in official statistics, new partnerships and use of innovative technology and statistical techniques, including mapping, targeted surveys, small area estimation may be required".⁸⁹

These recommendations take as departure point that the experience of people living in poverty about the obstacles they face cannot be adequately reflected solely in statistical data. Such data should be complemented by other means to convey information, to provide different framings and narratives both to policy-makers and to the broader public, in order to improve the salience of poverty in public discourse and to broaden political imagination.⁹⁰ There are two major advantages to this. First, insofar as the combination of qualitative data with quantitative data is achieved through the participation of the poor — allowing for the emergence of a plurality of narratives —, it can support the poor in becoming more reflective about their predicament. This contributes to empowerment and capacity-building, especially in circumstances where, as described by the *World Development Report 2015*, poverty ends up generating its own taxes due to the obstacles that poor people face in imagining different futures for them and to the cognitive limitations poverty entails.⁹¹ Poverty, this report notes, "is not simply a shortfall of money. The constant, day-to-day hard choices associated with poverty in effect tax an individual's *bandwidth*, or mental resources. This *cognitive tax*, in turn, can lead to economic decisions that perpetuate poverty".⁹² This is because poverty leads one to focus on the present (the satisfaction of immediate needs) to the detriment of the future (planning in the longer term); because the poor may find it difficult to aspire to another future, and thus to "take advantage of the opportunities that do present themselves"⁹³; and because, finally, "the environments of people living in poverty make additional cognitive demands", especially in poor countries where infrastructures are weak or non-existent.⁹⁴ Mapping poverty by taking into account the voices of the poor can help to gradually overcome these obstacles, since the alternative narratives that shall emerge should make it easier for them to reflect about their predicament—and should allow policymakers, especially, to adopt a more realistic view of poverty and of the

⁸⁸ Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context to the thirty-first session of the Human Rights Council (UN doc. A/HRC/31/54 (30 Dec. 2015)), para. 72.

⁸⁹ Everyone counts: Ensuring a response of official statistics to Sustainable Development Goals consistent with human rights, Note by the United Nations High Commissioner for Human Rights (UN doc. ECE/CES/2015/35 (8 May 2015)), para. 7 (a).

⁹⁰ On the importance of such framing and of the provision of such narratives, based on the insights from the neurosciences, see George Lakoff, *The Political Mind. A cognitive scientist's guide to your brain and its politics* (Penguin Books: New York, 2008); and *World Development Report 2015: Mind, Society and Behaviour* (World Bank Group: Washington, D.C., 2015).

⁹¹ World Bank, *World Development Report 2015: Mind, Society and Behaviour* (Washington, D.C.: World Bank, 2014), chapter 4. See also, in particular, J. Haushofer and E. Fehr, "On the psychology of poverty", *Science*, vol. 344, n°6186 (2014): 862-867 (describing how poverty "causes stress and negative affective states which in turn may lead to short-sighted and risk-averse decision-making, possibly by limiting attention and favoring habitual behaviors at the expense of goal-directed ones", thus resulting in "a feedback loop that contributes to the perpetuation of poverty").

⁹² *Id.*, p. 81 (based in particular on S. Mullainathan, and E. Shafir, *Scarcity: Why Having Too Little Means So Much* (New York: Times Books, 2013)).

⁹³ *Id.* Arjun Appadurai, a scholar at the New School, can be credited for having most explicitly put forward the argument according to which strengthening the "capacity to aspire" can be an essential tool in the fight against poverty. He conceived of the "capacity to aspire" as "a cultural capacity", which could be an ally in development, since "the poor could find the resources required to contest and alter the conditions of their own poverty" (A. Appadurai, "The Capacity to Aspire: Culture and the Terms of Recognition", in V. Rao and M. Walton (eds), *Culture and Public Action* (Stanford University Press, 2004), pp. 59-84.

⁹⁴ *Id.*

traps, including the cognitive traps, into which the poor may fall. Thus, the participation of the poor, the design of a plurality of methodologies to measure poverty, and capacity-building, are mutually reinforcing and, combined, can form a virtuous cycle.

The second contribution of a qualitative approach to poverty, based on the experience of people living in poverty, is that such an approach is much more appropriate to identifying the relational dimensions of poverty, i.e., the constraints that have their source in agency/social relations, often trapping people in poverty because of the marginalization they face. As explained by Sam Jones and Inge Tvedten in their study of poverty measurement as it arises in the context of Mozambique, "the primary focus of the qualitative studies concerns how structural constraints become encoded in social relations that reproduce different types of oppression (exploitation), viewed as an absence of genuine opportunities for exerting agency in a specific locale. To perceive the complex ways in which these play out, the 'lived experiences' of social relations of exclusion and inclusion of the most vulnerable are placed in the foreground".⁹⁵ Understood as a process of social exclusion, poverty can only be adequately described based not on a static and quantitative assessment of its importance in any given society at any particular time, but on the dynamic of how poverty is caused and perpetuated, as experienced by the people affected. It is by only by listening to the voices of the poor -- by adopting what anthropologists call an "emic" perspective, as opposed to the "etic" perspective of the external observer -- that issues arise such as disempowerment by local elites and traditional authorities, the shame of poverty leading the destitute to cut themselves off from social relationships that could provide a way out of poverty, or the weight of cultural norms related to gender, to loyalty towards one's family members or to gestures of solidarity towards the community.

There is therefore a link, real although indirect, between the methodologies used to capture poverty on the one hand, from the most expert-driven, quantitative and "objective", to the most participatory, qualitative and "subjective", and the definition of poverty on the other hand, from the most money-centric to the most attentive to the process of social exclusion. The table below seeks to capture this relationship. It is based on typologies of poverty measurement tools developed by Andrew Martin Fischer,⁹⁶ on the "Merging of Knowledge" methodology developed by ATD Fourth World⁹⁷ and on the contrast between quantitative and qualitative approaches to poverty drawn by Jones and Tvedten in the above-mentioned study on Mozambique⁹⁸:

		Etic		Emic
		Academic experts	Practitioners	People in poverty
Static	Money-metric	Incomes-based measures of poverty relying a price assessment of basic needs		
	Multidimensional	Entitlements-based approaches based on a multidimensional understanding on poverty		
Dynamic	Social exclusion			Participatory methodologies such as the reconstruction

⁹⁵ S. Jones and I. Tvedten, "What does it mean to be poor? Investigating the quantitative-qualitative divide in Mozambique", *World Development*, vol. 117 (2019): 153-166, at 158.

⁹⁶ A.M. Fischer, *Poverty as Ideology. Rescuing Social Justice from Global Development Agendas* (London: Zed Books, 2018).

⁹⁷ See above, text corresponding to footnotes 60-64.

⁹⁸ See above, footnote 95.

				of the chain of events that led to a situation of poverty (histograms), the mapping of power relationships within the community, and wealth ranking (perception within the community of different categories of "wealthy" and "poor" people
--	--	--	--	---

The table does not aim to provide a demonstration, but rather to help ask a question as to how we should understand the complementary ways in which poverty is defined and, once defined, assessed. Jones and Tvedten take the view that:

cherishing different methodological approaches (voices) is vital precisely because of their diversity and distinct goals. Quantitative approaches provide a description of material conditions and estimates of the distribution of consumption across different aggregates (regions, types of households etc.). This is useful. But such evidence cannot easily shed light on, let alone help contest, the increasingly unequal processes of development taking place in [a particular location]. A unique reliance on anthropological studies, however, would miss the broader sweep of changes in material conditions over time and provide little concrete guidance on where policy-makers might start looking to find the poorest groups. In sum, while quantitative and qualitative approaches overlap somewhat in their recognition of the material aspect to poverty, their understandings of what poverty is and the mechanisms that produce it are distinct. Consequently, a forced marriage of qualitative and quantitative approaches into an integrated analysis, risks losing the inherent diversity of perspectives and types of knowledge that comes from different ways of seeing poverty.⁹⁹

In contrast, the "Merging of Knowledge" approach pioneered by ATD Fourth World is premised on the idea not only that the knowledges of experts, of practitioners and of people with an experience of poverty are complementary and bring different insights to the understanding of poverty, but that they can be brought together to provide a new form of knowledge, the result of the "merger" -- of what Jones and Tvedten call "forced marriage". Are these approaches conflicting? Perhaps not, if we consider that the knowledge of each category of actors, and the associated methodology, has indeed a distinct function to fulfil, but that a separate and perhaps richer understanding can emerge from trying to combine them. Improvements in quantitative indicators measuring poverty could be related, for instance, with processes of empowerment (can empowerment explain improvements in the material conditions of the poorest segments of the population?), or quantitative data showing the increase in inequalities despite overall economic growth and improvement of material conditions could be a powerful tool to create awareness about the inequitable nature of growth (should growth not be better shared?): in such processes, the fusion of knowledges and the combination of methodologies is the source of new insights in the process of poverty creation, with a strong potential for empowerment.

⁹⁹ S. Jones and I. Tvedten, "What does it mean to be poor? Investigating the quantitative-qualitative divide in Mozambique", cited above, p. 164.

d) Measure not only theoretical access to rights, but also the non-take-up of rights

The phenomenon of the non-take-up of rights (whether in the form of benefits or of services) should be given specific treatment in poverty measurement, in order to understand better why potential beneficiaries of support schemes do not claim their rights and what can be done about this.¹⁰⁰ Specific indicators should be designed to this effect, that focus neither solely on the effective enjoyment of the right (to social security, to housing, to education, to healthcare, to food), nor solely on the legal entitlements provided for under the applicable regulatory framework, but on the gap between the two.

Why is it that certain people do not claim what they have a right to, or do not rely on certain services that are in principle available to them¹⁰¹? This may be because of a lack of information about their rights; because of the bureaucratic hurdles (the complexity of the procedure and the length of the forms, especially as compared to the level of the benefits and the unpredictability of the procedures to claim them)¹⁰²; because the potential claimants need an urgent solution and cannot afford the wait for the outcome of lengthy procedures; because of a lack of trust in the authorities before which the benefit should be claimed, or before which, if the claimed benefit is denied, a remedy may be sought¹⁰³; because of the so-called "welfare stigma", the shame people may experience when they are seen to depend on public support; because the benefits are means-tested, and they consider that they shall be unable to prove the lack of income; or because of the conviction of potential beneficiaries that they shall be unable to comply with conditionalities attached to the benefit, for instance where support is provided only on the condition that they prove that they are actively seeking to be employed or that they undergo some form of training.

Non-take-up may be the result of a vicious cycle in which the lack of access to a certain right (such as housing) may lead to a denial of other rights (such as education), which the individual concerned does not seek to exercise because he or she considers the chances of having access

¹⁰⁰ On this phenomenon, see in particular the work of the Observatoire des non-recours aux droits et services, launched in 2003 (<http://odenore.msh-alpes.fr/>); Antoine Math, "Le non-recours en France : un vrai problème, un intérêt limité", *Recherches et Prévisions*, n° 43 (1996); W. Van Oorschot, "Failing selectivity: On the extent and causes of non-take up of social security benefits", in H. J. Andress (ed.), *Empirical poverty research in comparative perspective* (Ashgate: Aldershot, 1998), pp. 101-132.

¹⁰¹ For an excellent summary, see Natascha Van Mechelen and Michiel Van Der Heyden, *La lutte contre le non-take-up: un inventaire des mesures de politiques et réflexion à la lumière de la littérature scientifique et des expériences de politique au Royaume-Uni et en Suède*, Policy Brief No. 1/2017, TAKE project (Reducing poverty through improving the take-up of social policies) (Oct. 2017). See also, in particular, W. Van Oorschot, *Take it or leave it: a study of non-take-up of social security benefits* (Tilburg: Tilburg University Press, 1994); and F. De Boe, H. Van Hootegem, N. Bernard, G. de Kerchove, M. Decuyper, H. Dubois, P. Mazet, I. Nicaise, P. Spicker and F. Tulkens, *Armoede en ineffectiviteit van rechten. Non-take-up van rechten / Pauvreté et ineffectivité des droits. Non-recours aux droits* (Brussels: Die Keure/ La Charte, 2017).

¹⁰² It has been reported for instance that in France, up to 80% of the potential beneficiaries of the revenu minimum d'insertion (RMI) have not claimed this benefit, due to the disproportion between the administrative complexities involved and the level of support provided by the RMI: see Philippe Warin, "What is the Non Take-up of Social Benefits?", *Books and Ideas*, 9 June 2014. ISSN : 2105-3030, <http://www.booksandideas.net/What-is-the-Non-Take-up-of-Social.html#nh9>

¹⁰³ This is the case in particular for undocumented migrants, who may fear that schools or healthcare services shall denounce them to law enforcement authorities, facing them with the risk of deportation. This, indeed, is why the Special Rapporteur on the human rights of migrants recommended that States put in place "firewalls" "between immigration enforcement and public services such as police, health care and education, in order to make sure that irregular migrant workers enjoy their civil, economic, social and cultural rights without fear of being identified, arrested, detained and deported" (see Report of the Special Rapporteur on the human rights of migrants to the twenty-sixth session of the Human Rights Council, UN doc. A/HRC/26/35 (3 April 2014), para. 103).

to the service concerned to be minimal: homeless parents, for instance, would generally not seek to place their children in crèches, in part because of shame, and in part because the crèche may require that the parents provide an address or may be easily contacted¹⁰⁴. Such vicious cycles may be triggered by the regulatory framework itself, as when tariff reductions on public transport are made conditional on the person presenting a document proving that s/he is benefiting from social aid. It may also occur that people underestimate their chances of having access to certain public services, such as childcare facilities, which have the reputation of being in short supply: it is generally people who are most subject to exclusion in other spheres that "self-exclude" themselves in such situations.

Which lessons can be drawn from the non-take-up of rights (both in the form of financial benefits and in the form of public services) in the design of poverty measurement tools? As explored in greater detail in section 2, where the principle of accountability was presented, a human rights-based approach to poverty reduction should combine the use of structural, process and outcome indicators, assessing respectively the legal/regulatory and institutional framework, the efforts of public authorities (including budgetary commitments), and the results achieved. In principle therefore, this combination should allow to identify gaps between accessibility in theory of certain benefits (whether financial or in kind), as measured by structural and process indicators, and their enjoyment in fact, as measured by outcome indicators. A well designed indicators framework should therefore allow to address the phenomenon of the non-take-up of rights: for instance, if the legislation provides that all individuals without other forms of support should have a right to social assistance (so that the country scores well on a structural indicator related to the universal coverage of social protection), but three quarters of adults without other forms of support do not claim that benefit (as highlighted by an outcome indicator), the gap shall be identified, and the problem of the low take-up of social assistance benefits shall be given political salience. That information alone, however, shall be insufficient to identify the solutions that can help overcome the gap: as noted in the previous paragraph, it is only by complementing statistical data about the coverage with narratives from the poor themselves, that the reasons for non-take-up can be identified, and public policies be made more effective.

4. Conclusion

Poverty-reduction efforts shall only be as effective as the poverty measurement tools we rely upon: precise measurement is essential to track progress and thus to improve accountability; to ensure that the question of tackling poverty remains high on the political agenda; and to ensure that the efforts are adequately focused on the causes of poverty, rather than simply addressing the symptoms. A human rights-based approach to poverty measurement also requires to consider that human rights violations and income poverty or poverty as material deprivation are interlinked, which encourages us to see poverty as a *multidimensional* phenomenon, that cannot be reduced to income poverty but instead is to be addressed as a set of deprivations in access to health, education and housing, and as worsened and made more difficult to address by political disempowerment. But the human rights-based approach to poverty measurement goes beyond that: it calls for a range of methodologies to be used in combination, including participatory methodologies, which are most suited to highlighting power relationships and the causality chains that lead to poverty and explain how it is reproduced.

The discussion of this chapter emphasizes three major benefits of approaching poverty reduction as a human rights issue. First, using the human rights lens should reflect the fact that the reduction of poverty, which is both the cause of human rights violations and a consequence

¹⁰⁴ See in particular A. Catrice-Lorey, "Inégalités d'accès aux systèmes de protection sociale et pauvreté culturelle", *Revue française des Affaires sociales*, vol. 30 (4) (1976), pp. 127-137.

thereof, is not a matter of choice for the State: it is a duty, grounded in human rights. Therefore, accountability mechanisms should be built into the poverty reduction strategy, including independent monitoring of progress. Secondly, a human rights-based approach to poverty reduction should lead to include a component related to equality and non-discrimination. This requires not only an explicit protection from discrimination on grounds of social (or social and economic) condition, but also that the data concerning access to the basic goods and services that correspond to the full enjoyment of human rights (housing, education, healthcare, food, work and social security) are disaggregated by income, gender, age, race, ethnicity, nationality, migratory status, disability, educational background, geographic location and other characteristics relevant in national context. If such disaggregated data reveal disparities in outcomes, targeted policies should be adopted to close the gaps identified. Thirdly, the design and implementation of poverty reduction strategies, but also the methodological choices concerning data collection and poverty measurement, should be informed by the participation of the poor. This can be time-consuming and demanding, but it is the only way to ensure that the strategies and the poverty measurement methods are sufficiently inclusive and well informed by the experience of those living in poverty or at risk of poverty or social exclusion. Indeed, poverty as *social exclusion* -- as the result of a *process* through which certain groups of the population are trapped in vicious cycles making it impossible for them to escape poverty -- cannot be adequately understood otherwise.

Specific recommendations follow as regards the measurement of poverty in particular. Such measurement should allow to arrive not at a single figure (such as the percentage of the population at risk of poverty or the absolute number of people facing severe material deprivation), but also at an improved understanding of the causes of poverty (the deprivations in housing, education, healthcare, food, work and social security, which may both explain poverty and be the consequence of poverty), in accordance with the multidimensional nature of poverty. It should also allow, by an adequate disaggregation of data, to identify who the poor are, and to unpack the processes through which poverty is caused and perpetuated. In measuring poverty, particular care should be taken not to ignore the "missing poor", i.e., the specific groups that tend to be invisible in statistics, for instance because (such as the homeless or institutionalized people) they are not covered by household surveys or because (such as undocumented migrants) they avoid contacts with social services. This requires the use of a *plurality of methodologies* to collect data about poverty, going beyond the classic reliance on household surveys. Numbers alone, moreover, may not suffice to convey the actual experiences of the poor -- the circumstances in which they live, the obstacles they encounter, and the solutions they imagine for themselves. Thus, statistical data should be complemented by other sources of information about poverty, providing other framings and narratives, ideally coming from the poor themselves. Finally, because it is not unusual for the poor not to take up the financial benefits they could claim, or not to use the services that would normally be accessible to them, even when such services are free or very unexpensive and thus affordable, it is essential that poverty measurement efforts focus specifically on the non-take-up of rights. The phenomenon should be given specific treatment in poverty measurement, in order to understand better why potential beneficiaries of support schemes do not claim their rights and what can be done about this. In the setting of political priorities and in designing public programmes, only what counts matters: we should ensure that, in the future, the poor count more.