

**POVERTY, SOCIAL EXCLUSION, AND THE ROLE OF A COMPREHENSIVE HUMAN RIGHTS FRAMEWORK**

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**Abstract**

Poverty and social exclusion are problems affecting every part of the globe, albeit to varying extents. These issues are not identical but have several commonalities being concerned not only with deprivation of resources and opportunities, but also denial of rights or situations where those affected cannot fully enjoy their human rights. Both conditions are seen as constituting violations of human dignity. Poverty and social exclusion also impact each other either as causes or vulnerability factors. The present paper seeks to study these issues in the context of human rights. It examines the concepts of poverty and social exclusion particularly with regard to human rights and considers the relationship between the two concepts including similarities, and their impact on each other. The role of a comprehensive human rights framework in addressing poverty and social exclusion is also considered.

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**I Introduction**

POVERTY AND social exclusion continue to pose major challenges to governments across the world. As has been noted in the context of poverty, it is a global phenomenon which affects all states to different extents and is not confined to the developing world.<sup>1</sup> Both conditions relate to the denial of or absence of resources, opportunities, or rights, which affects participation in society on equal terms with others, with at times, affected persons being in a situation where even basic needs for survival are denied or cannot be accessed. The World Conference on Human Rights in 1993 affirmed that, “extreme poverty and social exclusion constitute a violation of human dignity”.<sup>2</sup> In this light, both conditions can be seen as impacting the right to life of affected persons or groups, as far as life is understood as life with dignity.

As the Eleventh Five Year Plan document noted in the context of India, there have been a number of positive developments as concerns economic growth, investor perception, *etc.*, but at the same time, a “major weakness” of the economy is that “growth is not perceived as being sufficiently inclusive for many groups, especially Scheduled Castes (SCs), Scheduled

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights: Statement Adopted by the Committee on Economic, Social and Cultural Rights, E/C.12/2001/10 (4 May 2001), para 5.

<sup>2</sup>Vienna Declaration and Programme of Action 1993, para 25, *available at*: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx> (last visited on Sep. 12, 2015).

Tribes (STs) and Minorities”.<sup>3</sup> Similarly, although the incidence of poverty is reducing in percentage terms, a large number of persons still continue to be poor.<sup>4</sup> In other words, growth in economic terms may not necessarily be inclusive or of itself reduce poverty significantly.

Social exclusion and poverty are not identical but can be said to have certain common elements such as exclusion from or denial of access to resources and opportunities, both constituting a violation of dignity, and imposing constraints under which human rights cannot be enjoyed in the same manner as by others in society. They have also been seen to impact each other as causes or vulnerability factors.

This paper seeks to look into these issues from the point of view of human rights and attempts to explore the role of a human rights framework in addressing the issues of social exclusion and poverty. The first and second sections look into the concepts of social exclusion and poverty, respectively, particularly in the context of human rights. The third section focuses on the relationship between social exclusion and poverty, attempts to highlight commonalities and differences, as well as to show how these phenomena impact on each other. As both poverty and social exclusion are related concepts and are also concerned with the denial of rights, the final section considers the role that a comprehensive human rights framework can play towards addressing these issues.

### **Social exclusion**

Social exclusion, as the name suggests relates to exclusion from mainstream society. Social exclusion or “being ‘set apart’ or excluded from resources or opportunities confers disadvantage on certain groups”.<sup>5</sup> The term owes its origin to France, where it was first used in the mid 1970s in the context of individuals unable to access welfare entitlements.<sup>6</sup>

The term, however, does not have a universal or generally accepted definition, with different commentators and institutions defining the term differently. As Deshpande notes, while the literal meaning of the concept of social exclusion may be easy to grasp, “its operational meaning is hard to capture”.<sup>7</sup>

Social exclusion has been defined in terms of violation or denial of rights, centring on, though not limited to social rights. As defined by India in an ILO country case study, it is “the denial of the basic welfare rights which provide citizens positive freedom to participate in the social and economic life, and which thereby render meaningful their fundamental

<sup>3</sup> Planning Commission of India, 11<sup>th</sup> Five Year Plan (2007-2012), Ch. 1: Inclusive Growth 1(Planning Commission, Government of India).

<sup>4</sup> For instance, as noted in the Twelfth Plan Document, rural poverty between the years 2004–05 to 2009–10 (head count ratio) reduced from 41.79 to 33.8 and urban poverty from 25.68 to 20.9. *See*, Planning Commission, Twelfth Five Year Plan (2012–2017), III Social Sectors 221 (Sage Publications, New Delhi, 2013).

<sup>5</sup> Ashwini Deshpande, “Exclusion and Inclusive Growth” 3 (UNDP, 2013), *available at*: <http://www.in.undp.org/content/dam/india/docs/human-development/exclusion-and-inclusive-growth.pdf> (last visited on Sep. 11, 2015). As Kansra observes, “[t]he process of social exclusion is directly concerned with the marginalized groups excluded by mainstream society from fully participating in social and political life”. Deepa Kansra, *Contemporary Democratic Theory: A Critique of the Status of Rights, Governance, and Constitutionalism*, unpublished Ph.D Thesis, (Jamia Milia Islamia, New Delhi, 2010).

<sup>6</sup> Kathy Arthurson, “Editorial”, 39 (1) *Australian Journal of Social Issues* 3 (2004).

<sup>7</sup> Deshpande, *supra* note 5 at 1.

negative freedoms”.<sup>8</sup> Similarly, the definition by Russia in its country study also takes account of social rights. It states:<sup>9</sup>

[S]ocial exclusion is both an objective and a subjective feature of people’s rights. As an objective condition, it is characterized by material deprivation and infringement of social rights (including rights related to employment for the employed and unemployed). As a subjective feeling, it is characterized by a sense of social inferiority in the community or a loss of prior social status.

Another commentator, Landman “argues that social exclusion is a form of rights violation if systematic disproportionality of treatment of people across social, economic, and political spheres can be demonstrated”, and “human rights deficits can increase people’s vulnerability to exclusion”.<sup>10</sup> Thus, Landman views inequalities or gaps between groups as a feature of exclusion which makes it a rights violation, and absence of full enjoyment of rights as a vulnerability factor, rather than as causing exclusion of itself, unlike, for instance, India’s definition in its country study wherein the denial of social rights itself (which affects participation and enjoyment of other rights) constitutes exclusion. However, it would be also be important to note, as Kansra observes, that “ironically, the fact of social exclusion exists and grows within the established rights framework of the state”.<sup>11</sup> In other words, while social exclusion relates to violations of social rights and also to the exercise of “negative” rights, it also exists within a system of rights, which fact would be important to bear in mind when considering solutions.<sup>12</sup>

Levitas, in their study on a multi-dimensional analysis of social exclusion develop the following working definition:<sup>13</sup>

Social exclusion is a complex and multi-dimensional process. It involves the lack or denial of resources, rights, goods and services, and the inability to participate in the normal relationships and activities, available to the majority of people in society, whether in economic, social, cultural or political arenas. It affects both the quality of life of individuals and the equity and cohesion of society as a whole.

Jehoel- Gijssbers and Vrooman set out a conceptual framework for social exclusion, also treating it as a multidimensional phenomenon, which includes four elements, namely, material deprivation and inadequate access to government and semi-government provisions (social rights), which together comprise “economic or structural exclusion”, and insufficient social integration and insufficient cultural integration comprising “socio-cultural

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<sup>8</sup> Jane Matheison, Jennie Popay, Etheline Enoch, Sarah Escorel, Mario Hernandez, Heidi Johnston, and Laetitia Rispel, “Social Exclusion: Meaning, Measurement, and Experiences and Links to Health Inequalities: A Review of Literature”, WHO Social Exclusion Knowledge Network Background Paper 1 88(SEKH, Commission on Social Determinants, Lancaster University, 2008), *available at*: [http://www.who.int/social\\_determinants/media/sekn\\_meaning\\_measurement\\_experience\\_2008.pdf.pdf](http://www.who.int/social_determinants/media/sekn_meaning_measurement_experience_2008.pdf.pdf) (last visited on Sep. 15, 2015).

<sup>9</sup> *Ibid.*

<sup>10</sup> Matheison, *id.* at 16.

<sup>11</sup> Kansra, *supra* note 5.

<sup>12</sup> *Ibid.*

<sup>13</sup> Ruth Levitas, Christina Pantazis, Eldin Fahmy, David Gordon, Eva Lloyd, and Demi Patsois, “The Multi-Dimensional Analysis of Social Exclusion” 25 (University of Bristol, January 2007), *available at*: <http://dera.ioe.ac.uk/6853/1/multidimensional.pdf> (last visited on Sep. 17, 2015).

exclusion".<sup>14</sup> Inadequate access to social rights remains an element of this framework as well though it is only one of various facets considered, the others being cultural and social exclusion.

The elements of economic or resource deprivation as well as cultural exclusion also find place in the discussion by Deshpande, who cautions against a simplistic distinction between inclusion and exclusion, as firstly individuals have more than one identity, and may belong in more than one group; and secondly, group boundaries are not, as assumed, given and fixed.<sup>15</sup> Kabeer elucidates on this aspect pointing out that, "different forms of disadvantage give rise to different kinds of disadvantaged groups".<sup>16</sup> In addition to say economic (for instance, the "poor", who are deprived of adequate material possessions) or cultural (for instance, those suffering from stigmatized forms of illnesses such as leprosy or AIDS) forms of injustice which lie at opposite ends of the spectrum, there are "hybrid forms" giving rise to " 'bivalent collectivities', social groups for whom economic disadvantage is bound up with cultural-valuational disadvantage", for instance, gender, ethnicity, or caste.<sup>17</sup>

Further, while social exclusion has sometimes been considered in terms of 'risk factors' such as low incomes, low levels of education, poor health, gender inequality, discrimination and racism, *etc.*, among others, it has also been noted that the correlation between low incomes or unemployment and social exclusion may be limited (that is to say, a low income may not by itself lead to exclusion), and such correlations may not hold for other risk factors either.<sup>18</sup> These risk factors (though they may not necessarily give rise to exclusion), do, however, indicate absence of full enjoyment of human rights, both economic and social (low income, low levels of education, poor health) and civil and political (gender inequality, discrimination and racism).

Considering the question of social exclusion also requires considering the issue of agency or responsibility for exclusion. It has also been shown that the actions of persons, the affected persons themselves, or various institutional or private actors, may also function as 'excluders', social exclusion from this perspective, being "an inevitable outcome of the institutions of the modern welfare state, which takes away the incentive for people to shape their own lives, both through the safety net they provide and through the incentives administrative organisations may have in sustaining a passive attitude of their clients".<sup>19</sup> Kabeer observes that disadvantage may result in social exclusion where "the institutional mechanisms through which resources are allocated and value assigned operate in such a way as to systematically deny particular groups of people the resources and recognition, which would allow them to participate fully in the life of that society".<sup>20</sup> Similarly, as Kansra notes, "[t]he fact of social exclusion can be attributed to the state in terms of its actions or policies in exercise of its power".<sup>21</sup> Exclusion may also be the outcome of general socio-economic

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<sup>14</sup> Gerda Jehoel-Gijsbers and Cok Vrooman, "Explaining Social Exclusion: A Theoretical Model Tested in the Netherlands" 17 (The: The Netherlands Institute for Social Research, Hague, July 2007).

<sup>15</sup> Deshpande, *supra* note 5 at 3.

<sup>16</sup> Naila Kabeer, "Social Exclusion, Poverty and Discrimination: Towards an Analytical Framework", 31(4) *IDS Bulletin* 83 (Oct. 2000).

<sup>17</sup> *Ibid.*

<sup>18</sup> Jehoel-Gijsbers and Vrooman, *supra* note 14 at 12.

<sup>19</sup> *Id.* at 15.

<sup>20</sup> Kabeer, *supra* note 16.

<sup>21</sup> Kansra, *supra* note 5.

developments, such as, unemployment due to recession.<sup>22</sup> The question of agency is, however, a highly contested one in the literature.<sup>23</sup>

### Poverty as a human rights issue

While poverty is commonly understood in terms of lack of income or resources, which is indeed an important dimension of this concept, it has long been seen as a much wider concept. In Amartya Sen's words:<sup>24</sup>

...the characterization of poverty as simply shortage of income...is...still fairly common in the established literature on deprivation or destitution. This view, which is rather far removed from the relational notion of social exclusion, is not, however, entirely without merit, since income—properly defined—has an enormous influence on the kind of lives we can lead.

Even Aristotle, Sen notes, viewed an “impoverished life” as “one without the freedom to undertake important activities that a person has reason to choose”.<sup>25</sup> Elsewhere, he writes, “poverty can sensibly be defined in terms of capability deprivation; the approach concentrates on deprivations that are intrinsically important (unlike low income, which is only instrumentally significant)”.<sup>26</sup> The Committee on Economic, Social and Cultural Rights under the (ICESCR) endorses a broad and multi-dimensional definition of the term, which in its view, “reflects the indivisible and interdependent nature of all human rights”: Poverty is “a human condition, characterized by sustained or chronic deprivation of resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, social and political rights”.<sup>27</sup>

Poverty is also seen not only in terms of deprivation of resources or capabilities but also in terms of human rights. As a United Nations Development Programme (UNDP) practice note points out, “the definition of poverty is steadily moving towards a human rights-based vision highlighting its underlying multitude of causes”.<sup>28</sup> In fact, according to CESCR, the Universal Declaration of Human Rights (UDHR) as far back as in 1948 “established that poverty is a human rights issue”.<sup>29</sup> From the point of view of human rights, poverty represents a condition where human rights are denied to people, particularly, those rights that are classed as “economic and social rights” as they lack even what is necessary for their very survival or meeting basic needs. The CESCR has in fact, categorically observed, that “poverty constitutes a denial of human rights”.<sup>30</sup> In fact, as has been noted, poverty can be seen as both a cause and effect of human rights violations, as the denial of economic and social rights not

<sup>22</sup> Jehoel-Gijsbers and Vrooman, *supra* note 14 at 15.

<sup>23</sup> Matheison, *supra* note 8 at 16.

<sup>24</sup> Amartya Sen, “Social Exclusion: Concept, Application, and Scrutiny”, Social Development Papers No. 13 (Asian Development Bank, Philippines, 2000).

<sup>25</sup> *Ibid.*

<sup>26</sup> Amartya Sen, *Development as Freedom* 87 (Oxford University Press, New Delhi, 2000).

<sup>27</sup> *Supra* note 1 at para 8.

<sup>28</sup> UNDP, “Poverty Reduction and Human Rights: A Practice Note” 2 (June, 2003), available at: [http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/poverty-reduction-and-human-rights-practice-note/HRPN\\_\(poverty\)En.pdf](http://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/poverty-reduction-and-human-rights-practice-note/HRPN_(poverty)En.pdf) (last visited on Sep. 14, 2015).

<sup>29</sup> *Supra* note 1 at para 1.

<sup>30</sup> *Ibid.*

only is a root cause of poverty, it also reinforces the “vicious cycle” of poverty.<sup>31</sup> The Vienna Declaration and Programme of Action considers poverty as preventing the enjoyment of rights noting, “[t]he existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights...”<sup>32</sup> These observations thus identify three ways in which poverty is seen as related to human rights, as a violation of human rights of itself; as a cause and consequence of rights violations; and as an impediment to the full enjoyment of human rights.

One important aspect in the issue of poverty, as mentioned, is lack of access to basic needs. Professor Pogge notes human beings need access to safe food and water, clothing, shelter, and basic medical care in order to live and people in poverty lack access to sufficient quantities of these basic necessities.<sup>33</sup> However, as he also observes, “most of the current and mass under-fulfilment of human rights is more or less connected with poverty”, and while the connection is direct in the case of social and economic rights, it is more indirect as regards civil and political rights.<sup>34</sup> Thus, while poverty can be viewed in terms of lack of access to economic and social rights, it is not necessarily only these rights that they impact. Those in poverty “are often excluded from participating meaningfully in the political process and seeking justice for violations of their human rights”.<sup>35</sup> The Human Development Report of 2000 “conveyed the central message that poverty is an infringement on freedom and that the elimination of poverty should be addressed as a basic entitlement and a human right—not merely as an act of charity”.<sup>36</sup>

### **Social exclusion and poverty: How are they related?**

As social exclusion is concerned with, though not restricted to, deprivation of material resources, and violations of social or welfare rights, it can also be seen as relating to the phenomenon of poverty, which as discussed in the previous section is also concerned with the absence of sufficient resources, the violation of human rights, including in particular basic needs which fall within the realm of social rights. It would be useful here again to refer to Deshpande who notes that a distinction between social exclusion and concepts like poverty or inequality is that while the former is a group phenomenon, the latter is individual but the distinction may not be as watertight as it might appear at first sight.<sup>37</sup> Another distinction highlighted between the two is that while poverty emphasizes material as well as social deprivation, social exclusion underscores the ability of a person or group to participate in

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<sup>31</sup> B.C. Nirmal, “Poverty and Human Rights: An Indian Context”, 46 *Indian Journal of International Law* 187 (2006). As illustrated on the website of the Special Rapporteur on Extreme Poverty and Human Rights, extreme poverty can be a cause of human rights violations, such as extremely poor people being forced to work in unhealthy working conditions, or a consequence, such as children being unable to escape poverty because of lack of adequate state provisions for education. See, website of “Special Rapporteur on Extreme Poverty and Human Rights”, <http://www.ohchr.org/EN/Issues/Poverty/Pages/SRExtremePovertyIndex.aspx> (last visited on Sep. 17, 2015).

<sup>32</sup> Vienna Declaration and Programme of Action 1993, *supra* note 2 at para 14.

<sup>33</sup> Thomas Pogge, “Severe Poverty as a Human Rights Violation” (2003), *available at*: [http://www.etikk.no/globaljustice/papers/GJ2003\\_Thomas\\_Pogge\\_Severe\\_Poverty\\_as\\_a\\_Human\\_Rights\\_Violation.doc](http://www.etikk.no/globaljustice/papers/GJ2003_Thomas_Pogge_Severe_Poverty_as_a_Human_Rights_Violation.doc) (last visited on Oct. 11, 2008).

<sup>34</sup> Thomas Pogge, “Poverty and Human Rights”, *available at*: [http://www2.ohchr.org/english/issues/poverty/expert/docs/Thomas\\_Pogge\\_Summary.pdf](http://www2.ohchr.org/english/issues/poverty/expert/docs/Thomas_Pogge_Summary.pdf) (last visited on Oct. 12, 2008).

<sup>35</sup> See, website of “Special Rapporteur on Extreme Poverty and Human Rights”, *supra* note 31.

<sup>36</sup> UNDP, *supra* note 28 at 2.

<sup>37</sup> Deshpande, *supra* note 5 at 2.

social, economic, political and cultural life.<sup>38</sup> It has also been observed that while poverty may include deficiencies other than financial shortages, the reason behind them is essentially financial while social exclusion may also result due to factors such as illness, old age, etc., without financial poverty.<sup>39</sup>

For the Independent Expert on Human Rights and Extreme Poverty, social exclusion is an element of both “capability poverty” as defined by Sen, and “extreme poverty” which “considers poverty as a denial of human rights”.<sup>40</sup>

The relationship between poverty and social exclusion is a reciprocal one. Poverty is seen as a result of social exclusion or exclusion as a vulnerability factor leading to poverty, while poverty in turn may result in or create vulnerability to social exclusion. For instance, a DFID paper points out that social exclusion denies people the same rights and opportunities as afforded to others in their society, and that it causes poverty of particular people leading to higher rates of poverty among affected groups, besides “increas[ing] the level of economic inequality in society, which reduces the poverty reducing impact of a given growth rate”.<sup>41</sup> It explains “why some groups of people remain poorer than others, have less food, are less economically and politically involved, and less likely to benefit from services” making it difficult for the Millennium Development Goals to be achieved, besides also being a leading cause of conflict and insecurity.<sup>42</sup> The United Nations Office of the High Commissioner for Human Rights (OHCHR) has also argued that both poverty and exclusion may result from each other: “Socially and politically excluded people are more likely to become poor and the poor are more vulnerable to social exclusion and political mobilization”.<sup>43</sup> Estivill notes that poverty and social exclusion are not equivalent or synonymous but sees them as complementary and relative, with those affected by one or the other being identified as poor or excluded according to a number of standards defining material well-being and the degree of hierarchical division in each society.<sup>44</sup> A number of considerations relating to exclusion are also valid in the case of poverty.<sup>45</sup> Hirsch sees the process as cyclical with poverty being a

<sup>38</sup> “Social Exclusion”, *available at*: <http://www.poverty.ac.uk/definitions-poverty/social-exclusion> (last visited on Sep. 17, 2015).

<sup>39</sup> Jehoel-Gijsbers and Vrooman, *supra* note 14 at 14–15.

<sup>40</sup> Arjun Gengupta, “Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights including the Right to Development”, (Human Rights Council Feb. 28, 2008), paras 39–40, *available at*: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/111/56/PDF/G0811156.pdf?OpenElement> (last visited on Sep. 17, 2015).

<sup>41</sup> DFID, “Reducing Poverty by Tackling Social Exclusion: A DFID Policy Paper” 5-6 (Glasgow: DFID 2005).

<sup>42</sup> *Id.* at 6.

<sup>43</sup> UN Office of the High Commissioner for Human Rights, “A Human Rights Approach to Poverty Reduction Strategies” 48 (OHCHR 2002).

<sup>44</sup> Jordi Estivill, “Concepts and Strategies for Combating Social Exclusion: An Overview” (International Labour Office, ILO, 2003). Hirsch similarly argues that poverty and social exclusion cannot be resolved in isolation noting that people in poverty find it difficult to participate in society as they lack resources to do so and conversely, lack of participation exacerbates poverty, for instance, directly in the form of exclusion from paid work or indirectly by exclusion from social networks that help people improve their lives. Donald Hirsch, “Where Poverty Intersects with Social Exclusion: Evidence and Features of Solutions” 4 (York: Joseph Rowntree Foundation, September 2006), *available at* : <http://www.wlmhtrecoverycollege.co.uk/download/Social%20Inclusion/Where%20poverty%20intersects%20with%20social%20exclusion%20Evidence%20and%20features%20of%20solutions.pdf> (last visited on Sep.17, 2015).

<sup>45</sup> Estivill, *ibid.* Another study similarly notes that poverty has a profound effect on some aspects of social exclusion though not all, and that there are other causal factors as concerns social exclusion; for instance age, disability, gender, *etc.* “Social Exclusion”, *supra* note 38. However, these factors too can be seen as vulnerability factors for poverty. For instance, a Report of the Independent Expert on the Question of Human

cause of exclusion which in turn leads to further poverty. He writes, “the most important effects of poverty today involve exclusion from participation, which...feeds future poverty”.<sup>46</sup>

Writing on the issue of homelessness, Lynch points out, “there are strong links between people experiencing homelessness or poverty and the social exclusion or marginalisation experienced by those groups: as discrimination may cause poverty, poverty may also cause discrimination”.<sup>47</sup> Further, “[d]iscrimination can exclude people from access to goods and services, health care, adequate housing, education and employment and also increase vulnerability or magnify homelessness and poverty”.<sup>48</sup> These observations also highlight the link between civil and political rights (here, non-discrimination) and economic and social rights (access to basic necessities) in circumstances of poverty and exclusion.

However, it may also be mentioned that there is some debate as to the exact relationship with one view considering that there is hardly any difference between the two, while the other arguing that the differences are substantial in terms of absolute (poverty) versus relative (social exclusion), or unidimensional (poverty) versus multidimensional (social exclusion), among other parameters.<sup>49</sup>

However, it is clear that there is a strong link between social exclusion and poverty. Even if one is not seen as being a direct cause of the other, poverty can certainly be seen as making a person vulnerable to exclusion, as well as exclusion to poverty. Moreover, considering the concepts or definitions of poverty and social exclusion, as discussed above, both share certain elements, for instance, material deprivation is seen in the definitions of both terms, as is denial of or no access to social rights, and certain vulnerability factors, for instance, low levels of education, gender, etc., may also be shared by both (though these factors may not necessarily lead to poverty or social exclusion, or both). Further, both are seen in terms of human rights—while social exclusion has even been defined by some as the denial of social rights which may lead to or affect the enjoyment of other rights and freedoms, poverty, as discussed in the previous section, has also been seen as “a denial of rights”; as a cause and effect of human rights violations; and as obstructing the enjoyment of human rights. Putting it simply, in both situations, affected persons or groups do not enjoy all their basic human rights.

### **The role of a comprehensive human rights framework**

As discussed in the previous sections, both poverty and social exclusion are concerned with human rights, and are situations where those experiencing poverty or exclusion are unable to enjoy or are denied their human rights, both economic and social, as well as civil and political. Moreover, though much debated, there are ample views that highlight the links

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Rights and Extreme Poverty notes, “[g]ender inequality causes and perpetuates poverty”. Report of the Independent Expert on the Question of Human Rights and Extreme Poverty, UN General Assembly, A/65/259, “Human Rights and Extreme Poverty, Note by Secretary General (August 2010), para 49, *available at*: <http://daccess-ods.un.org/TMP/6910952.92568207.html> (accessed September 12, 2015).

<sup>46</sup> Hirsch, *supra* note 44 at 9.

<sup>47</sup> Philip Lynch, “Homelessness, Human Rights, and Social Inclusion”, 30 (3) *Alternative Law Journal* 116, 117 (June 2005).

<sup>48</sup> *Ibid.*

<sup>49</sup> Jehoel-Gijsbers and Vrooman, *supra* note 14 at 13–14.



between poverty and social exclusion. Many have thus recommended the protection of human rights as part of the strategy to address poverty and social exclusion.<sup>50</sup>

A human rights-based approach to poverty reduction forms part of the recommendations of the UN Office of the High Commissioner for Human Rights. They highlight that a human rights-based approach to poverty reduction *inter alia*, provides a deeper understanding of the causes and consequences of poverty; broadens the scope of poverty reduction strategies to address the structures of discrimination that generate and deepen poverty; strengthens civil and political rights as they can play an instrumental role in addressing the cause of poverty; and confirms that economic and social rights are binding obligations, not just programmatic aspirations.<sup>51</sup> This approach is dynamic, leaving scope for “tailoring it to a specified context”.<sup>52</sup> In this context, it is important to take note of the fact that enjoyment of one right is indivisibly linked to others, for instance the right to health is linked to basic needs such as food and water, as well as a clean environment, as also to information and education, and in turn impacts the right to livelihood and other rights.<sup>53</sup> Further, the principles of equality and non-discrimination, participation and inclusion are of importance.<sup>54</sup> In other words, this approach highlights the importance of both social rights and civil and political rights.

The role of a human rights-based approach can be important in this regard as it “works from the position that international human rights standards place an obligation and duty on governments to ensure that their plans, policies and processes promote these rights”, and is based on principles of legitimacy, accountability and transparency, empowerment, and equality, non-discrimination and attention to vulnerable groups.<sup>55</sup> The aspect of binding obligations that a human rights framework imposes also finds mention in the report of the independent expert on extreme poverty and human rights, who observes that “there is a significant value added to invoking a human rights framework in policies to eradicate poverty” as basic human rights are seen as “valuable objectives” that all human beings are entitled to; and as one, considering poverty as a violation of human rights can mobilize public action, which could significantly contribute to the adoption of appropriate policies; and two, being binding obligations, governments would have to demonstrate that they have made their best efforts towards adopting appropriate policies.<sup>56</sup>

Similarly others have also argued in favour of a comprehensive human rights framework to address social exclusion and poverty, while highlighting specific areas of human rights which

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<sup>50</sup> For instance, one of the ways identified by DFID to address the challenges posed by social exclusion is “increasing accountability to protect citizens’ basic rights”. DFID, *supra* note 41 at 9. Similarly, on poverty, the CESCR notes that while poverty is a multi-dimensional problem raising issues “not amenable to simple solutions”, the international human rights framework can be applied to ensure that “essential elements of anti-poverty strategies, such as non-discrimination, equality, participation and accountability, receive the attention they deserve”. Committee on Economic, Social and Cultural Rights, *supra* note 1 at para 9. Again, Matheison et al. note that the “UNDP has been a strong advocate for a human rights-based approach to address social exclusion”, and it has been argued that “translating social exclusion as the UN non-discrimination clause enables the concept to be grounded in international law applicable to the majority of states and allows the necessary relationships between ‘duty bearers’ and ‘claim holders’ to be cultivated”. Matheison, *supra* note 8 at 15.

<sup>51</sup> UNDP, *supra* note 28 at 6.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Id.* at 7.

<sup>54</sup> *Id.* at 7–8.

<sup>55</sup> EAPN, Ireland, *A Handbook on using a Human-Rights Based Approach to Achieve Social Inclusion and Equality*, 9 (EAPN, Ireland, December 2007).

<sup>56</sup> Sengupta, *supra* note 40 at para 41.

in their view deserve particular attention. For instance, Castellino sees the focus of human rights mechanisms primarily on civil and political rights and not on “the full spectrum of human rights”, which include economic and social rights, as making them “relatively ineffective in addressing issues of social exclusion, empowering communities in socio-economic terms, or making contributions to ending poverty”.<sup>57</sup> In fact, for him this excessive reliance on civil and political rights, at the expense of economic and social rights is a shortcoming of the “prevailing approach to human rights”, in addition to other weaknesses such as an overt focus on individual over collective rights; and inter alia, an over-emphasis on states as the primary liable actors for human rights violations.<sup>58</sup>

In the same way, Yeates also argues in favour of viewing rights as interdependent and indivisible and does not see ensuring social rights alone as the appropriate solution. She concludes that social rights in themselves, although social exclusion is often defined in terms of these rights, cannot be assumed to protect people against poverty and social exclusion, as there is no clear-cut relationship between the provision of rights and well-being of people.<sup>59</sup> She also points out that informal networks are important in dealing with social exclusion; that rights can be exclusionary as well as integrative (though this does not imply that the concept of rights should be rejected); that the standard of a right to an adequate standard of living can be met without eliminating poverty; and that addressing social rights requires rights being seen as universal and indivisible, besides the issue of equality or reducing differentials.<sup>60</sup> She thus argues that an anti-poverty strategy cannot be based on a “social rights of the poor” approach and that it must embrace a citizenship perspective which involves social, political, and civil rights.<sup>61</sup> However, while a social rights approach by itself, may not be sufficient as Yeates notes, due to lack of sufficient attention to social rights over the years, relegating them to the position of “secondary” rights or even aspirations, Castellino’s argument for focussing on social and economic rights becomes important.

A further dimension of human rights which has been referred to in the context of poverty alleviation is that of the right to property. As Kansra notes, “[t]he security of property is crucial to freedom, prosperity and realizing equality”, and access to land may contribute to livelihoods for poorer households as well as poverty alleviation in the short and long-run.<sup>62</sup> In fact life, liberty, and property are the three basic “human” rights identified by philosophers like Locke. She further notes, “[f]or a long time, the mainstream human-rights discourse has been self-contradictory for proposing human rights as essential for freedom and prosperity, without even committing to the protection of the right to property. Within the rights

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<sup>57</sup> Joshua Castellino, “Social Inclusion and Human Rights: Implications for 2030 and Beyond”, Background Paper for the High Level Panel of Eminent Persons on the Post-2015 Agenda 1 (Jan. 15, 2013), *available at*: <http://unsdsn.org/wp-content/uploads/2014/02/130114-Social-Exclusion-and-Human-Rights-Paper-for-HLP.pdf> (last visited on Sep. 11, 2015).

<sup>58</sup> *Id.* at 2–3.

<sup>59</sup> Nicola Yeates, “Social Exclusion, Social Rights, and Citizenship: The Contribution of a Social Rights Perspective to Combating Poverty and Social Exclusion”, An Internal Discussion Document Prepared for the Combat Poverty Agency 11(1995), *available at* : [http://www.combatpoverty.ie/publications/SocialExclusionSocialRightsAndCitizenship\\_1995.pdf](http://www.combatpoverty.ie/publications/SocialExclusionSocialRightsAndCitizenship_1995.pdf) (last visited on Sep. 11, 2015).

<sup>60</sup> *Id.* at 11–16.

<sup>61</sup> *Id.* at 16.

<sup>62</sup> Kansra, *supra* note 5.

framework, such hostility has been a hindrance to securing respect for the basic rights, as well for ameliorating poverty.”<sup>63</sup>

The need to focus on a holistic framework of rights is also demonstrated by observations in the Eleventh Plan document, which also highlight the interconnections between social rights and civil and political rights illustrating the impact of the former on well-being in the short term and on “negative” rights, such as equality in the longer term. It observed: <sup>64</sup>

...while in the short run, access to basic facilities, such as health, education, clean drinking water, etc., impacts directly on welfare, in the long run, it determines economic opportunities for the future. Without access to these services, one cannot be considered to have equality of opportunity.

It is apparent from the views of many commentators discussed above that while social exclusion and poverty may be seen, at times, as violations of specific human rights, particularly rights that are classified as economic and social rights, it cannot be said that the solution to addressing social exclusion lies merely in making these rights justiciable or strengthening the availability of these rights alone. In other words, the solution does not lie in any one dimension of human rights. Rather, it is amply clear that while strengthening rights alone may not by itself result in eliminating social exclusion and poverty, a strong human rights framework would have an important role to play. However, this would be one which is a comprehensive human rights framework, based on the interrelatedness, interdependence, and indivisibility of all human rights. But as discussed in the previous sections, exclusion has also been seen to be a fact which exists within the rights framework, and this fact also needs to be taken into account though as Kansra and Yeates note, both inclusion and exclusion can occur within the rights framework.<sup>65</sup>

## II Conclusion

Thus, a comprehensive human rights framework can play an important role in tackling the issues of social exclusion and poverty, particularly in view of the very concept of human rights, their value, and their binding nature. The interrelatedness, indivisibility, and interdependence of all human rights has been asserted and affirmed at many forums, for instance in the Vienna Declaration and Programme of Action of 1993,<sup>66</sup> and the UDHR too had placed all human rights on the same plane. However, as Woods observes, while the UDHR posits as fundamental both the traditional tenets of individual liberty and the so-called second-generation rights, the social, economic, and cultural preconditions of a dignified human life remain marginalized in the dominant human rights discourse.<sup>67</sup>

Civil and political rights have been sought to be protected at international levels (through, for instance the ICCPR which provides monitoring mechanisms as well as an individual complaints mechanism in an optional protocol), and at domestic levels with the constitutional frameworks of most countries providing for various civil and political rights with remedies through the judiciary often being provided in the constitutions themselves. However,

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<sup>63</sup> *Ibid.*

<sup>64</sup> Planning Commission, *supra* note 3 at 3.

<sup>65</sup> Kansra, *supra* note 5; Yeates, *supra* note 59.

<sup>66</sup> “All human rights are universal, indivisible and interdependent and interrelated”. Vienna Declaration and Programme of Action 1993, *supra* note 2 at para 5.

<sup>67</sup> Jeanne M. Woods, “Justiciable Social Rights as a Critique of the Liberal Paradigm” 38 *Texas International Law Journal* 763 (2003).

economic and social rights, have been argued to be non-justiciable (though this has been refuted by many), and have been treated as “secondary” to civil and political rights at international as well as national levels for long which has led to their being insufficiently protected and treated as aspirations or goals rather than rights.<sup>68</sup> Therefore, as Castellino has rightly argued, it becomes important to ensure adequate protection of economic and social rights as rights. While many have argued that economic and social rights are not justiciable, the experience of South Africa, for instance, which incorporates a number of economic and social rights in its Constitution as justiciable rights, as well as the jurisprudence under the complaints mechanism of the European Social Charter which began to permit collective complaints in the late 1990s, strongly support the justiciability of economic and social rights.<sup>69</sup> Similarly, the other neglected area of human rights, of the right to property would also need to be addressed as part of the strategy for poverty alleviation.

As Castellino writes, “[a] failure to correct the trajectory of human rights law, to make it focus on the needs and challenges faced by vulnerable communities...would mean that inequalities would persist into the future...”<sup>70</sup> Ensuring adequate protection of all human rights, in view of their interrelatedness and interdependence, particularly focusing on those dimensions that have so far been neglected, thus could play an important role towards tackling the factors that impact and even lead to poverty and social exclusion. As Van Genugten and Perez-Bustillo note:<sup>71</sup>

Human rights are not panaceas...But for some cases and situations legal means of struggle might well be the most appropriate. International human rights norms are both a source of inspiration and an instrument for the eradication of extreme poverty.

The same would also hold true for exclusion.

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<sup>68</sup> There have been a number of positive developments in recent times including the introduction of an individual complaints mechanism under an optional protocol to the ICESCR in 2008.

<sup>69</sup> See, Yuval Shany, “Stuck in a Moment of Time: The International Justiciability of Economic, Social and Cultural Rights”, Research Paper no. 09-06, 21, 25(International Law Forum, Hebrew University, August, 2006), available at :<http://www.ssrn.com/abstract=920753> (last visited on Nov. 10, 2011).

<sup>70</sup> Castellino, *supra* note 57 at 2.

<sup>71</sup> Willem Van Genugten and Camilo Perez-Bustillo, “Human Rights as a Source of Inspiration and an Instrument for the Eradication of Extreme Poverty”, in Willem Van Genugten and Camilo Perez-Bustillo (eds), *The Poverty of Rights: Human Rights and the Eradication of Poverty* 203 (Zed Books, London, 2001).