



## Poverty as a violation of rights: the role of the state and Brazilian social assistance policy

### *Pobreza como violação de direitos: o papel do estado e da Assistência Social brasileira*

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**Abstract:** This article aims to provide a theoretical and critical analysis of the notion of “rights” in the Brazilian State, based on the assumption that poverty is one of the most challenging rights violations to be faced in the country. Following this logic, by continuing political mechanisms that perpetuate poverty, the State can also be considered a rights violator, using its public policies as tools to maintain social conditions that contribute to such violations, including the Social Assistance policy. To carry out this analysis, a bibliographic study was conducted, intentionally choosing references that would allow an approach to the topic. In addition, documentary research was done, in search of laws and normative documents to support the discussion.

**Keywords:** poverty; violation of rights; Social Assistance.

**Resumo:** Este artigo pretende tecer uma análise teórico-crítica da noção de “direitos” no Estado brasileiro, partindo do pressuposto que a pobreza é das violações de direitos mais desafiadoras a serem enfrentadas no país. Seguindo essa lógica, ao dar continuidade a mecanismos políticos que perpetuam a pobreza, o Estado também pode ser considerado violador de direitos, utilizando suas políticas públicas como ferramentas de manutenção de condições sociais que contribuem para tal violação, dentre elas a política de Assistência Social. Para realizar essa análise foi feito um estudo bibliográfico, na escolha intencional de referências que permitissem uma aproximação do tema. Além disso, foi também realizada uma pesquisa documental, na busca de leis e documentos normativos a ampararem a discussão.

**Palavras-chave:** pobreza; violação de direitos; Assistência Social.

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## INTRODUCTION AND STUDY METHOD

The discussion of poverty as a violation of rights is not new. Analyzing Brazilian public Social Assistance policy in this debate represents legitimizing its leading role in the field of social protection and the defense of citizenship in the country. The issue of rights is so important for Brazilian Assistance policy that its two levels of protection are outlined on this basis: Basic Social Protection (consisting of services, programs and actions aimed at preventing social risk) and Special Social Protection (aimed at assisting families and individuals at social risk due to rights violations) (MDS, 2005).

The purpose of this article is not to question the role of Social Assistance as public policy. On the contrary, it's reiterate the importance of this policy – and of the Unified Social Assistance System (SUAS)<sup>2</sup>, which materializes Social Assistance policy in Brazil – as an advance by the Brazilian state in its responsibility for its social problems, previously addressed under the aegis of philanthropy, benevolence and first-damism approaches (Mestriner, 2011; Sposati, 2004). When it was included in the 1988 Constitution, Social Assistance opened a new chapter in the country's history, establishing by law the government's commitment to guaranteeing social protection through a non-contributory public policy.

First, it's intended to problematize the role of the State in ensuring this social protection, in accordance with the defense of rights that must be guaranteed to the population. What are these "rights", according to the legal aspects supporting the current Brazilian Constitution and the regulations resulting from it (such as the Organic Law of Social Assistance, which regulates the SUAS)? Specifically analyzing the issue of poverty according to these same regulations, can it also be considered a violation of rights? What is the role of the State in this context, to protect its population against these violations or can it also act as a violator of rights?

To support this debate, bibliographical and documentary research was conducted. The bibliographical research, from a narrative perspective (Lune; Berg, 2016), deliberately sought out, selected and cited relevant materials to the debate on the proposed topic and the aims of the article. The documentary research, in turn, included national and international legal and regulatory documents pertinent to the discussion proposed here. All these documents are freely accessible, were available

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<sup>2</sup> In Portuguese, *Sistema Único de Assistência Social* (SUAS).

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online and links to them were provided in their corresponding references.

### 1 “POVERTY” AND “RIGHTS”: A POSSIBLE RELATIONSHIP?

According to the documents that will be analyzed in the following section, this article starts from the premise that poverty can be considered a violation of rights. Despite this, this assertion is not consensual in literature. This is because the definitions of “poverty” and “rights” have changed throughout history, vary according to the legal characteristics that regulate the social functioning of each people, and are constantly (re)established by national and international institutions<sup>3</sup>. Thus, there are many ways to discuss this topic.

Even among those who consider poverty a violation of rights, there are different perspectives. Costa (2008) identifies three conceptual models (not incompatible with each other) through which this association is possible. The first brings together theories that view poverty itself as a violation of human rights. The second includes those theories that treat poverty as a cause or consequence of the violation of several rights, such as the right to food, housing, an adequate standard of living and others. There is a third group of theories that consider poverty as a violation of a specific right, such as the right to development.

According to the first perspective, considering poverty as a violation of rights means trying to locate it within the legal framework that regulates the functioning of a society. Under this premise, protection against poverty would be a guarantee offered by some States, aiming at the general well-being of their population. Oliveira (2003)<sup>4</sup> problematizes this perspective through a historical analysis of the emergence and evolution of the logic of “rights” in different societies. The author warns that the system of rights has never served to guarantee equality of citizens and opportunities in a population. On the contrary, by determining which individuals have certain rights and in which situations, the law also “legalizes and protects social inequalities” (p. 59)<sup>5</sup>. In

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<sup>3</sup> For a more in-depth discussion of the role of numerous international entities in defining “poverty” and “rights”, see Reeve (2023/2013).

<sup>4</sup> In this essay, excerpts from works published in English have been preserved in their original form. However, all terms and excerpts from works published in Portuguese were translated into English by the author herself.

<sup>5</sup> The debate on inequality regulated by law is widely present in Norbert Elias's theory on the distinction between insiders and outsiders (2000, 2001, 2008). In the specific case of Brazilian social policy, this debate is also present in Fleury (2015), when he proposes the concept of “inverted citizenship” as a complement to Santos's “regulated citizenship” (2000).

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this sense, Maia (2010) points out the legal difficulty in guaranteeing social rights (including the guarantee of the right to protection from poverty). Many of these rights are cited objectively in the legal norms of a State, but many others can only be considered subjectively – for example, the right to protection against poverty being inferred from the right to protection against hunger or the right to a minimum income.

On the other hand, theories that treat poverty as a cause or consequence of the violation of several rights consider their multiplicity and indivisibility. Pettit and Meyer-Bisch (2003, p. 214) explore the idea of a “spiral of violations” or a “vicious circle of insecurity”, through which it is possible to think that “the denial of the right to housing leads to the formal and practical inability to enjoy most civil rights and also, at least, to seek work, take the child to school and experience harmonious family relationships”. In this analysis, different categories of rights appear intertwined, directly or indirectly. This is the case of civil and political human rights, for example, considering the impossibility of some very poor families, in their struggle for survival, being able to dedicate time and resources to participating in the life and political struggle of their community.

Among the theories that consider poverty a violation of a specific right, one of the most prominent representatives of this idea is the Indian philosopher and economist Amartya Sen (2010), arguing that the development of a people is directly associated with “a process of expanding the real freedoms that people enjoy” (p. 17). Thus, despite the difficulties in defining what poverty is, its consequences are manifested in the deprivation of multiple freedoms and capabilities, such as the basic freedom to survive. Based on this, Sen criticizes criteria for identifying poverty that consider only the income level of an individual or family, ignoring the fact that being poor also means lacking capabilities to feed, house or dress oneself adequately, enjoy a decent standard of living or exercise adequate political participation that constitutes the right to citizenship.

How can it view this discussion in the case of Brazil? It’s essential to analyze some legal documents that regulate the functioning of the Brazilian State, as well as the Social Assistance policy – the focus of the investigation of this article.

## 2 WHAT “RIGHTS” IT’S TALKED ABOUT?

### 2.1 *International agreements*

It’s necessary to examine the possibilities of considering poverty as a violation of rights based on some international agreements to which Brazil is a signatory. Given the scope of possible materials to be included in this analysis, it will focus only on agreements proposed by the United Nations (UN)<sup>6</sup>, of which Brazil is a member. The materials will be cited according to the chronological order in which they were proposed.

The first of them is the Universal Declaration of Human Rights, of 1948. Its text significantly influenced the writing of the Brazilian Constitution of 1988, drafted as a commitment to comply with the international agreement signed forty years earlier (Giovanetti, 2009). Many articles of the Declaration can be interpreted as proposals for protection against poverty. In Article 1, for example, it can be said that the guarantee of the right “to life, liberty and personal security” is threatened by conditions such as hunger, unhealthy housing, and the lack of freedom in due to the many deprivations poverty entails – here it can recall Amartya Sen’s idea of development as an exercise of freedom, mentioned earlier.

However, it is perhaps in Article 25 that the understanding of poverty as a violation of human rights is most evident:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (ONU, 1948).

The guarantee of “a standard of living adequate” that ensures the above-mentioned elements of health and well-being is directly affected by poverty. It can also be seen as both a cause and a consequence of unemployment<sup>7</sup> and can affect physical and mental health on various levels. This is a perspective of poverty as multi-faceted,

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<sup>6</sup> In Portuguese, *Organização das Nações Unidas* (ONU).

<sup>7</sup> Serge Paugam (2003), describing the process of social disqualification caused by unemployment, mentions the difficulty of reintegration into the workplace and society due to the weakening and loss of social ties caused by lack of work. For the author, the search for Social Assistance in the humiliating experience in where one gains the status of “poor” and “assisted”, is another element of the disqualification process.

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consisting of different dimensions and affecting various spheres of a person's life, transcending the idea that poverty can be described solely in terms of income criteria, therefore.

From this perspective, it can be possible to analyze the International Covenant on Economic, Social and Cultural Rights (ICESCR), of 1966. This document also provides for the “right of everyone to the enjoyment of just and favorable conditions of work,” through which it is possible to obtain “a decent living for themselves [workers] and their families” (ONU, 1966, Article 7). The Covenant also provides for the right to Social Security and protection against hunger. The right to food is reiterated in this pact. It is worth noting that, although it also influenced the text of the Brazilian Constitution of 1988, the ICESCR was only enacted in Brazil in 1992, also constituting a legal mechanism to combat poverty and hunger in the country<sup>8</sup>.

The Declaration on the Right to Development (ONU, 1986) determines that the right to development is a prerogative of both nations, equally, and of the individuals who comprise them. In this Pact, “development” has multiple meanings:

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized (Art. 1, § 1).

All these meanings attributed to the term “development” are affected by the situation of poverty. As was presented, it is not only a limitation on the level of income. The daily efforts to achieve a sufficient standard of living to support an individual and their family can entail various limitations (resources, time, influence, social networks, power, etc.) which affect the exercise of citizenship and the social and cultural existence of that person.

In 1993, the Vienna Declaration presented a more comprehensive text on the issue of poverty. In addition to directly linking it to human rights violations, it held each State, as well as cooperation between them, responsible for its eradication. By ratifying the Right to Development “as a universal and inalienable right and an integral part of fundamental Human Rights” (ONU, 1993, Art. 10), it assigned the international community the responsibility of supporting the least developed countries in this task.

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<sup>8</sup> Soares and Sousa (2015) point out that the right to food was not included in the Brazilian legal system “as a linear and harmonized practice as provided for by international human rights standards” (p. 88). Instead, pressure from civil society on different governments to reduce poverty and hunger would have been even more relevant in the implementation of government actions and public policies for this purpose.

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The Declaration states that “The existence of widespread extreme poverty inhibits the full and effective enjoyment of human rights” (Art. 14), and classifies poverty as a violation in itself:

The World Conference on Human Rights affirms that extreme poverty and social exclusion constitute a violation of human dignity and that urgent steps are necessary to achieve better knowledge of extreme poverty and its causes, including those related to the problem of development, in order to promote the human rights of the poorest, and to put an end to extreme poverty and social exclusion and to promote the enjoyment of the fruits of social progress (Art. 25).

In Article 30 of the same Declaration, poverty is classified as one of the “gross and systematic violations and situations that constitute serious obstacles to the full enjoyment of all human rights”. Therefore, the document relates poverty to the issue of rights violations in several ways, which are also classified differently (human rights, the right to development, the right “to an adequate standard of living”, among others).

Almost ten years later, the UN launched the guidelines “A human rights approach to poverty reduction strategies” (2002). This document extensively explores the perspective of poverty as a violation of human rights, reiterating the legal responsibility of each State and the international community. The publication also details the UN’s multidimensional perspective on poverty and proposes strategies for identifying groups that can be classified as “poor”. Another interesting aspect of this text is the classification it offers regarding the type of right to which poverty reduction refers: “holistic in nature, encompassing civil and political rights as well as economic, social and cultural rights” (p. 11).

There are several other United Nations documents that deal with this issue. The first goals included in the Millennium Development Goals (2000), for example, are the eradication of extreme poverty and hunger, “recognizing the direct relationship between poverty and human dignity”. These goals also appear in the Sustainable Development Goals, launched fifteen years later. The publication “Poverty reduction and human rights: a practice note” (2003) categorically states that “poverty is a denial of human rights” (p. 4), citing principles such as equality, non-discrimination and empowerment as fundamental to strategies to combat this problem. In 1992, UN Resolution 47/196 established October 17 as World Day for the Eradication of Poverty.

Considering these examples of international publications and agreements (supported by Brazil), poverty can be considered a violation of rights. It’s necessary to observe the national legislation, which also supports the functioning of Brazilian public

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### **2.2 Brazilian regulations**

When it comes to documents that constitute and support Brazilian legal norms, many references that establish the relationship between poverty and rights could be cited. Only a few have been selected, mainly those related to the Brazilian Social Assistance policy, considering the contribution they offer to the objectives of this work.

Beginning with the 1988 Constitution, which is noteworthy for establishing the country's Social Assistance policy, as part of the Brazilian Social Security system. In addition, the document commits to “the prevalence of human rights” (Art. 4), meaning that several agreements signed by the UN and other international organizations are reaffirmed in this text.

Right at the beginning, Article 3 of the Constitution states that one of the “fundamental objectives of the Federative Republic of Brazil” is to “eradicate poverty and marginalization and reduce social and regional inequalities” (Art. 3, III). To achieve this and other goals, social rights are established, including: “education, health, food, work, housing, transportation, leisure, security, social security, protection of maternity and childhood and assistance to the destitute” (Art. 6). From this it can be deduced that access to many of these rights is affected by the situation of poverty (which can be a cause and/or consequence of lack of food, work, housing, etc.). Following this logic and considering only the income criterion, almost one third of the Brazilian population<sup>9</sup> is in a situation where their constitutional rights are violated.

Specifically analyzing documents that regulate Social Assistance policy, the Organic Law of Social Assistance (1993) reaffirms the objective of the policy to provide social protection to its users, a protection that “aims to guarantee life, reduce harm and prevent the occurrence of risks” (Art. 2, §1). One of the social risks mentioned in the law is poverty, against which some strategies must be adopted, such as integration into the labor market (Art. 2, §1, c) and the guarantee of payment of the continuous benefit to the elderly and disabled (Art. 2, §5). The LOAS reaffirms the commitment of Social Assistance to act together with other sectoral policies, “aiming to combat poverty, guarantee social minimums, provide conditions to meet social contingencies

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<sup>9</sup> Population in poverty (earning below R\$665 in monthly per capita income) (IBGE, 2024).

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and universalize social rights” (Art. 2, Sole §).

The issue of poverty is also addressed in the wording of the National Social Assistance Policy (PNAS)<sup>10</sup>, published in 2005. It specifies who the target group of social assistance is: “citizens and groups who find themselves in situations of vulnerability and risk”, including “exclusion due to poverty” (p. 33). Poverty also appears in the text’s characterization of the policy’s two levels of social protection. When describing for whom Basic Social Protection (PSB)<sup>11</sup> is intended, the text mentions, among others, the “population that lives in social vulnerability due to poverty” (p. 36) and includes in the list of PSB services, precisely, Productive Inclusion Programs and projects to combat poverty. In the case of Special Social Protection (PSE)<sup>12</sup>, aimed at assisting individuals and families in situations of rights violation, the PNAS explains that poverty - associated with social inequality, income concentration and social exclusion (in its heterogeneity) - leads to rights violations.

The National Typification of Social Assistance Services (MDS, 2009/2014) also assigns the responsibility to Social Assistance policy for working with “families in situations of social vulnerability as a result of poverty” (p. 13). It is interesting to note that the document describes which families should be monitored by the Specialized Protection and Attendance Service for Families and Individuals (PAEFI)<sup>13</sup>, part of the Special Social Protection, which works with victims of rights violations. People living in poverty are not referred to as victims of rights violations. Nevertheless, some of the groups included in this list may have their conditions associated with poverty (either as a consequence of it or as a cause / or aggravation of this condition), such as “people living on the streets and begging”, victims of child labor and also the large group that may include people who are victims of “other forms of rights violations resulting from discrimination / or subjection to situations that cause harm and worsen their living conditions and prevent them from enjoying autonomy and well-being” (p. 29).

The analysis of these documents and those cited in the previous section confirms the possibility of interpreting poverty as a violation of rights. This is the focus of this text, although Social Assistance policy does not only address people in situations of poverty, but is aimed at “those who need it” (Brasil, 1988, Art. 203). From

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<sup>10</sup> In Portuguese: *Política Nacional de Assistência Social* (PNAS).

<sup>11</sup> In Portuguese: *Proteção Social Básica* (PSB).

<sup>12</sup> In Portuguese: *Proteção Social Especial* (PSE).

<sup>13</sup> In Portuguese: *Serviço de Proteção e Atendimento Especializado a Famílias e Indivíduos* (PAEFI).

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a legal perspective, a publication by the National Secretariat of Social Assistance (Brasil, 2013) argues that this policy is responsible for ensuring the right to Social Security - the right that guarantees certain social security benefits, from which specific social welfare rights emanate, within the scope of social protection. Several of these rights (to food, work, housing, leisure and others mentioned) are compromised by poverty<sup>14</sup>.

The perspective of Social Assistance as a right (and as a policy that guarantees rights) must be opposed to a “strategic management of poverty” (Mauriel, 2010, p. 77), which places the responsibility for overcoming this condition on poor individuals. This type of management often adopts remedial strategies, “which avoid the commitment to the totality of the expression of the situation of social vulnerability in the face of social protection to be ensured as a right” (MDS, 2013, p. 22). Investment in specific actions that encourage a meritocratic view of social conditions goes against the perspective of the law, in which structural changes are necessary for social inclusion, the reduction of inequalities, as well as the elimination of poverty and hunger, to be effectively possible.

Following this reflection based on the right, it is necessary to problematize how such a right can be ensured, who is responsible for guaranteeing it, how this should be done and what sanctions are possible in the event of non-compliance with the rules cited here as examples. It is not the objective of this work to detail legal aspects involving the issue. Instead, let us turn our discussion to the role of the State as an agent that simultaneously promotes and violates rights, using the Social Assistance policy as the backdrop for this analysis.

### **3 STATE AS A DEFENDER OR VIOLATOR OF RIGHTS?**

A historical review of the actions taken by the Brazilian State in relation to social problems in the country (Arretche, 2018; Cordeiro, 2018; Mestriner; 2011; Sposati, 2004) shows that its role has long been characterized by omission. Until the middle of

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<sup>14</sup> This view supports arguments in favor of adopting a multidimensional poverty assessment. The United Nations proposes, for example, the adoption of the “Multidimensional Poverty Index” (MPI), which selects three dimensions for its assessment, subdivided in such a way as to comprise ten criteria in total. These are: health (nutrition and infant mortality); education (years of schooling and school attendance); and standard of living (access to cooking gas, basic sanitation, drinking water, electricity, adequate housing and “goods” - radio, TV, telephone, computer, car, electrical appliances and others in the home) (ONU, 2010).

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the 20th century, the social sphere was not treated as public responsibility, so the task of helping people in situations of poverty, hunger or illness was reserved for religious and charitable institutions.

The State financed and monitored some of these philanthropic tasks, but only as a supporter. In the 1930s, the National Council of Social Service (CNSS)<sup>15</sup> was founded, constituting the first regulation of Social Assistance in the country. In the 1940s, the Brazilian Assistance Legion (LBA)<sup>16</sup> was created, initially to help the families of Brazilian soldiers sent to the Second World War; Later, the LBA began to dedicate itself to donating clothes, food and supplies to people living in poverty. However, all these initiatives had a strong welfare-based, charitable, and sporadic nature and were marked by nepotism<sup>17</sup>.

The 1988 Constitution began a new chapter in the history of Brazilian Social Assistance, by establishing it as a public policy. Even so, the implementation of this policy encountered major political obstacles, meaning that the approval of the Organic Law on Social Welfare required popular mobilization in favor of recognizing social assistance as a legitimate responsibility of the State (Raiquelis, 2015). Since then, this policy has faced constant challenges, one of which is the restriction of resources for its operation (even in critical moments of increased cases attended to by this policy, as occurred during the pandemic<sup>18</sup>).

Once the State has been established as legally responsible for the right to Social Assistance as a public policy and is also responsible for ensuring the rights that the policy itself seeks to defend (those that configure social protection)<sup>19</sup>, it is necessary to understand its implications in this process.

One concern is the very establishment of poverty as a violation of rights. Despite all the documents cited here as examples, Faria (2010) draws attention to the fact that

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<sup>15</sup> In Portuguese: *Conselho Nacional de Serviço Social* (CNSS).

<sup>16</sup> In Portuguese: *Legião Brasileira de Assistência* (LBA).

<sup>17</sup> The CNSS was composed exclusively of Councilors appointed by the President of the Republic (BRAZIL, 1938). The LBA, in turn, was chaired by First Lady Darcy Vargas, inaugurating the tradition of first ladyism in Brazil, especially when in coordinating projects, actions and policies in the social area (RODRIGUES, 2021).

<sup>18</sup> More detailed analyses on the topic can be found in Braga, França and Costa (2020) and in Lisboa (2022).

<sup>19</sup> Although this text approaches law through the lens of legality, it is noted that the commitment some States assume in the social sphere and in “human rights” is often marked by a “moral” and subjective perspective (in which some responsibilities are assumed, although not provided for by law). An obvious consequence of this is a greater difficulty in legally delimiting these rights, as well as in legally establishing the responsibilities and sanctions to be attributed to these States (POGGE, 2007).

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the idea of “freedom” in capitalist and democratic societies contributes to the view that it is up to each individual to construct their own social success or failure, corroborating the meritocratic argument that was already cited. Thus, the translation of poverty as a violation of rights requires a legal interpretation that delimits what these rights are (to survival, housing, a dignified life, food, or many others) (Pogge, 2007) and that understands the problem in its structural and historical aspects - a social responsibility that describes freedom as a product of public action and as a government task (Faria, 2010).

Since poverty has been defined as a violation committed by a given State, it is also necessary to define who can be responsible for establishing sanctions. Considering that governments themselves cannot be involved in this task, Correa (2013), based on UN recommendations for the international community to be responsible for defending human rights<sup>20</sup>, advocates, for example, the creation of international mechanisms for monitoring, judging and establishing these sanctions. On the other hand, the operationalization of this proposal faces challenges.

As Hadiprayitno (2004) warns, disparities (political, economic, cultural) between countries can generate different difficulties in guaranteeing certain human rights, especially given the economic limitations faced by poorer nations. Additionally, the author argues that rich countries have their own development priorities, making it difficult for them to commit to providing support to poorer countries in achieving human rights goals. If it is difficult to establish sanctions for countries that fail to meet these goals, this difficulty is even greater when it comes to establishing the accountability of other countries in defending human rights from a global perspective.

In the case of the Brazilian State, there are multiple contradictions surrounding the consideration of poverty as a violation of rights, when analyzing the specific case of Social Assistance policy. One such contradiction lies in the fact that, despite all the legal apparatus it has considered here, which legally supports the functioning of this policy in the country, the condition of poverty is not considered an element that, in itself, justifies classifying an individual or family as being in a situation of rights violation – justifying their monitoring, for example, in the Special Social Protection of the SUAS. Instead, there is heterogeneity in the characterization of poverty among the regulations of the Assistance policy. As it was presented, the LOAS treats poverty as a factor of

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<sup>20</sup> As presented in ONU (1993, 2002), publications already cited above.

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“social risk”, while the PNAS and the National Typification describe it as a factor of “social vulnerability” – that is, one that makes families and individuals more vulnerable to the social risk resulting from the violation of rights, but does not constitute a violation per se.

Another contradiction lies in the role of the Brazilian State itself, given its responsibility to ensure the right to Social Security through, among other instruments, the Social Assistance policy. Since protection against poverty is one of the conditions (highlighted in the LOAS), its non-fulfillment directly compromises the right to Social Security itself. Consequently, this situation allows us to infer multiple simultaneous rights violations: the violation of the right to Social Security, the violation of the right to protection against poverty (considering the legal documents cited as examples), as well as the violation of rights threatened by poverty (the right to food, life, property, employment, leisure, and many others already mentioned here).

At this point, it's arrived at the contradiction concerning the State's own role regarding the theme of rights. On the one hand, it is a signatory to international agreements that establish the premises of human rights. In addition, it is also responsible for legislating, enacting and monitoring compliance with laws that guarantee the rights it establishes at the national level, such as social rights and the right to Social Security. On the other hand, the State itself acts as a violator of these rights, failing to offer conditions that guarantee, among others, the effective eradication of poverty and related problems, such as hunger, social exclusion and the multiple inequalities (social, educational, income, etc.) that have historically plagued the country.

**FINAL CONSIDERATIONS**

In this text, although the analysis primarily focused on Social Assistance policy, the implications of this discussion extend to other public policies, both as rights in themselves and as defenders of specific rights within their respective fields. For Social Assistance, its characterization as a public policy represents the hope of overcoming an assistance-based model and a naturalized perspective of poverty as an inevitable consequence of capitalism. Viewing this policy as a right to social protection at various levels, ensuring dignified living conditions and the exercise of citizenship in its multiple spheres becomes mandatory. To achieve this, legal safeguards must be expanded to

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ensure that States are effectively held accountable for fulfilling their designated responsibilities from a rights-guarantee perspective.

It is possible to cite mechanisms for holding the State accountable when it comes to defending rights established by law – such as activating the Public Prosecutor's Office. However, in the context of poverty, the lack of clarity in its definition creates difficulties for this action. Costa (2008) mentions, for example, the absence of analytical instruments (parameters and indicators) that can legally define what poverty is. The income criterion is just one of the elements that can be considered in this sense, but it does not resolve the complex discussion about which elements should be included in constructed poverty index that considers poverty from a multidimensional perspective and includes in this analysis the differences between the realities of different peoples<sup>21</sup>.

This set of contradictions is reflected in the daily routine of public policies, affecting their functioning. In the case of Social Assistance, defining the specific rights should ensure demarcates its levels of protection, access to social assistance benefits, and access to the actions and support characteristic of each level of social protection within SUAS (whether Basic or Special Social Protection). The State is responsible not only for upholding the rights that comprise Social Assistance but also for ensuring the right to this policy itself. However, access to Social Assistance services is not always available to the entire Brazilian population. This is particularly true for individuals unfamiliar with the services provided by the policy, those unable to move to service centers (or who are not reached by SUAS teams in their homes), and those living in rural or hard-to-reach areas. For these individuals, since they cannot adequately exercise their broader right to access Social Assistance policy, the broader right to Social Security is also compromised.

In this sense, legal mechanisms become necessary to ensure the State's commitment to guaranteeing access to public policies (including Social Assistance), which, as Arretche (2018) argues, is one of the factors responsible for reducing

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<sup>21</sup> Arguing in favor of the multidimensionality of poverty, Amartya Sen refers to a "coupling of disadvantages" that characterize it (SEN, 2010, p. 110), citing, for example, income deprivation alongside an individual's age, their (in)capacity for work, or health status. The author also advocates for a perspective of a relative poverty, wherein the same income might be sufficient or insufficient to ensure an individual's development depending on the cost of living in their place of residence.

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poverty<sup>22</sup>. The selection of poverty indicators and parameters for state accountability are important in this process, but they are insufficient if the rhetoric of meritocracy is invoked to justify the Brazilian State's historical lack of accountability for the country's social dramas. Indeed, it is urgent that poverty be considered in terms of its macrostructural factors and as an effective responsibility of the State – both in producing poverty and in combating it. By placing responsibility for their social condition on the individual, the multiple factors that have perpetuated the dynamics of inequality and social exclusion are ignored. This oversight contributes to Brazil, despite its economic progress, still being considered one of the most unequal countries in the world (WIL, 2024).

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<sup>22</sup> The author states that state funding of public services (such as education, healthcare, and food) relieves individuals and families of these expenses, thus serving as a factor that help overcome poverty or extreme poverty.

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