



# Human Rights in Neoliberal Era: A Case Study of Georgia

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## ABSTRACT

Neoliberalism, characterised by free-market reforms, privatisation of public services and assets, prioritisation of private property rights, and limited government interference, has shaped the "neoliberal age." Critics argue that these policies have contributed to social inequality, poverty, and human rights violations. This research analyses the challenges neoliberal policies present to human rights and assesses the effectiveness of human rights in addressing social inequality, injustice, and poverty, focusing on the Case study of Georgia.

The concept of neoliberalism as a political philosophy prioritises the interests of multinational corporations and privileged individuals. This paper explores the interconnection between neoliberal economic policies and social and economic rights. The research highlights the extent of poverty and its impact on human rights, particularly on vulnerable groups in Georgia. It reveals that a significant portion of the global population lives in poverty, adversely affecting access to healthcare, education and other basic necessities.

Given these realities, the effectiveness of human rights in addressing the challenges posed by neoliberal policies is questioned. The study analyses the Georgian human rights framework and the rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights. It investigates the legal and political aspects involved in addressing socioeconomic issues and explores the role of human rights in tackling social inequality and injustice.

**Key words:** neoliberalism, privatisation, deregulation, Georgia, poverty, social rights

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## **ABBREVIATIONS**

ECHR - European Convention on Human Rights

ELC - Economic Land Concessions

HRW- Human Rights Watch

ICESCR - International Covenant on Economic, Social and Cultural Rights

IMF - International Monetary Fund

OHCHR - Office of the High Commissioner for Human Rights

TI - Transparency International

VAT - Value-Added Tax

UDHR - Universal Declaration of Human Rights

UN - United Nations

UNGA - United Nations General Assembly

UNICEF - United Nations Children's Fund

WHO - World Health Organisation

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# CHAPTER ONE

## 1. Introduction

### *1.1. Problem Statement*

In 2013, Gogita Abashidze, a one-year-old child, tragically died due to malnutrition. Medical examinations revealed that his weight at the time of his death was identical to that at birth. Regrettably, Gogita's situation is not an isolated case, as a significant number of children in Georgia suffer from the distressing consequences of malnutrition, primarily due to the prevailing poverty in Georgia (Voice of America, 2017). 'Welfare Monitoring Survey 2017' highlights the drastic and frightening reality of extreme poverty in Georgia. According to the findings of this report, 6.8% of children and 3.7% of pensioners live beneath the threshold of extreme poverty, defined as an income of 1.25 USD per day. In addition, 27.6% of children and 17.6% of pensioners struggle to meet the general poverty line of 2.5 USD per day (UNICEF, 2018, pp.11-12). These figures underscore the profound challenges facing the vulnerable population in the country.

Since 2003, the Georgian government has embarked on a rapid program of economic reforms firmly rooted in the principles of free-market neoliberal ideology. These reforms included a comprehensive neoliberal agenda to foster a business-friendly environment by attracting foreign investments through various incentives, including minimal taxes and regulatory constraints (Godar, Khundadze and Truger, 2018). The government initiated a massive privatisation of public assets such as key public services, state-owned enterprises and infrastructure. At the same time, deregulatory measures were taken to simplify bureaucratic procedures, eliminate licencing requirements and abolish regulatory bodies (Gugushvili, 2017). Despite introducing some progressive measures in the post-2012 period, Georgia has stuck to its neoliberal course, while poverty remains a major challenge (World Bank, 2021). Apart from poverty, these measures have raised additional human rights concerns, particularly in the area of labour rights and the role of government in ensuring the realisation of human rights on the one hand and the effective monitoring and supervision of human rights on the other.

Despite the rapid economic reforms through which post-Soviet Georgia fully transitioned to a neoliberal economic framework, poverty remains one of the most significant challenges facing the Georgian population, even amid significant economic growth (Steenland and Gigitashvili, 2016). The effectiveness of liberal economic policies is being questioned in the face of persistent social inequality and poverty. The ongoing struggle against poverty has led to a reexamination of these policies as humanity seeks more inclusive and sustainable approaches to economic development.

The effects of free market economic policies and their consequences for poverty and human rights have come under scrutiny on a global scale. "Capitalism created great wealth and great misery" (Freeman, 2017, p.190) - this statement by Michael Freeman is supported by numerous studies conducted worldwide. In 2019, nearly half of the world's population (47 per cent) lived in poverty, defined as surviving on less than US\$6.85 a day. 8.4 per cent of the global population spends less than \$1.90 daily and lives in extreme poverty. Michael Freeman discusses the impact of globalisation and poverty in his book and identifies poverty as one of the biggest threats to human rights (Freeman, 2017, pp.190-196). Over the last decade, several studies have confirmed Michael Freeman's observation regarding the impact of globalisation, economic policies, social inequality, and poverty on human rights. These findings have illustrated how dominant economic policies have resulted in human rights violations, encompassing the rights to adequate food, healthcare, education, and housing. Beyond social rights, it has become evident that poverty also poses a significant threat to fundamental rights, including the right to life. In 2020, the World Health Organisation report revealed a harsh reality: Five million children under the age of five lost their lives, mainly due to causes that were preventable or treatable. Shockingly, almost 45% of these deaths were due to malnutrition and lack of access to health care (World Health Organisation: WHO, 2022). Furthermore, social inequality and poverty cast a long shadow over education. According to a 2016 report by UNICEF, 263 million children are out of school. In studied cases, the main barrier to accessing education has been identified as poverty (UNICEF, 2016). These statistics underscore the urgency and gravity of this problem.

The reasons for this problem cannot be attributed solely to a struggling economy or resource scarcity. A study conducted by Oxfam found that the world's eight wealthiest individuals have as much wealth as the poorest 50% of the world's population (Oxfam International, 2022). Having resulted in the concentration of wealth and power in the hands of a few,



creating a new class of ultra-rich individuals while leaving millions in poverty. The global wealth gap is at its highest level in recent decades.

There is the same tendency regarding social inequality in Georgia. The wealthiest 10% of the population receives 50% of the nation's income, while the following 40% shares almost the same, about 45% of total income. This leaves a meagre 10% of annual income to be divided among the remaining 50% of the population (Tzagareli and Chivadze, 2021, pp.37-38). This social inequality leads to poverty and human rights violations, which raises questions about the country's social and economic policies.

The described reality questions the effectiveness of human rights in addressing the challenges posed by neoliberal reforms. Despite Georgia's adherence and commitment to key international human rights treaties, human rights have rarely played a central role in shaping Georgia's social and economic policies, raising questions about their ability to address social inequality and poverty. Social challenges in Georgia have prompted a critical examination of the effectiveness of human rights in the face of market-driven economic pressures. Given the harmful impacts of the COVID-19 pandemic and the ongoing conflict in Ukraine, which have led to numerous crises and exacerbated poverty, it is more important than ever to find ways to improve human rights practices to address social injustice and poverty.

This paper is an attempt at a thorough investigation of how neoliberal reforms affect poverty, income inequality and social and economic rights in Georgia. This Master's thesis will, therefore, examine the impact of the neoliberal agenda on social and economic rights by examining the case of Georgia. The thesis will conduct a comprehensive case study of two decades (2003-2023) of Georgian social and economic policies rooted in neoliberal political ideology and their impact on human rights.

## ***1.2. Purpose of the Study and Research Questions***

The primary goal of this research paper is to identify the challenges neoliberal reforms have posed to social and economic rights in Georgia. It will specifically assess how privatisation, reduced government intervention, deregulation, and tax cuts affect human rights. Furthermore, the study examines the effectiveness of Georgia's human rights legal framework, which includes both national and international human rights law, in addressing the challenges posed by neoliberal policies and proposes strategies to strengthen human rights

protection in the face of market-based reforms. More specifically, the study seeks to identify the extent to which, and the methods by which, human rights can be used strategically to proactively mitigate economic reforms that could potentially lead to social injustice and inequality and threaten the realisation of social and economic rights. To achieve this goal, apart from the human rights framework, I will analyse the characteristics of social rights, including their "positive nature," their dependence on "available resources", and challenges related to enforceability. To accomplish these purposes, this paper intends to answer the following research questions:

**(RQ1):** How does Georgia's neoliberal agenda affect human rights, and what are the main challenges neoliberal reforms pose to human rights in the country?

**(RQ2):** How effectively does Georgia's human rights framework address the challenges of the neoliberal agenda, and what are the main weaknesses or shortcomings?

To answer these questions, I will provide a comprehensive analysis of the intricate relationship between neoliberal economic policies and human rights in Georgia. The empirical study will primarily rely on examining policy papers through legal acts. I will incorporate theoretical discourse that involves critiques of neoliberalism and the broader free-market political ideology. Numerous critics contend that this ideology primarily serves the interests of economic elites, neglecting the welfare of disadvantaged individuals. (Harvey, 2007, p.7). This assertion supports the observation that human rights are often perceived as advantageous solely for the elite class under neoliberal policies and questions the effectiveness of socio-economic rights.

### ***1.3. Dissertation Outline***

The thesis is structured into six distinct chapters to comprehensively address the research questions and examine the interplay between neoliberal economic policies, human rights, and their implications in Georgia's evolving socio-economic landscape.

**Chapter 1: Introduction** serves as the gateway to the research and sets the stage by introducing the research topic, identifying the research problem, and presenting the objectives and questions. It also outlines the significance and scope of the study while providing an overview of the entire thesis structure.

**Chapter 2: Literature Review** offers a comprehensive survey of the existing literature, examining key elements of neoliberalism and free-market economic policies and their impact on human rights. This chapter also outlines the historical background of Georgia's socio-economic policy and features of neoliberal reforms.

**Chapter 3: Research Methodology** delves into the methodological approach employed, explains how the case study aligns with the research questions and justifies the selection of data sources.

**Chapter 4: Conceptual and Theoretical Framework** explores the theoretical foundation of the study and emphasises its relevance to the research questions. It takes an in-depth look at the intersection between Neoliberal political ideology and human rights and clarifies the essential concepts and ideas shaping this theoretical framework.

**Chapter 5: Empirical Study** is the core of the thesis and focuses on Georgia's Neoliberal reforms by reviewing policy documents from a human rights perspective. Findings are presented through policy papers (legislative changes, acts and explanatory notes) and analysed through the lens of theories and literature to provide a comprehensive understanding of the topic.

**Chapter 6: Conclusions and Recommendations** brings the thesis to a conclusion by summarising the research findings, concluding the interplay between human rights and economic policy, and offering recommendations to improve the effectiveness of human rights and mitigate the negative effects of free-market economic policy. It also identifies the subject of potential future research.

# CHAPTER TWO

## 2. Literature Review

In this chapter, an extensive literature review is conducted, focusing on the research topic. The reviewed literature provides valuable insights into the Neoliberal political ideology and its impact on human rights. According to scholars, neoliberalism exacerbates social inequality and undermines social protections and human rights by advocating free markets and limited government intervention. As this literature review presents, most reviewed papers claim that the neoliberal policy directly impacts the realisation of human rights, as it opposes social and economic rights by promoting extensive privatisation of public goods and services, minimal government intervention, deregulations and the dismantling of welfare systems. Additionally, relevant literature is presented to explore the repercussions of Georgia's neoliberal agenda, the implications of state weakening, and the complexities surrounding deregulation and privatisation.

### *2.1. Neoliberal Political Ideology*

Neoliberalism is a worldwide dominant economic and political ideology which emerged in the late 20th century in response to stagflation and the failure of Keynesian Economics (Saad-Filho & Johnston, 2005). One of the most influential proponents of neoliberalism was the economist Milton Friedman, who advocated for completely deregulating markets and privatising public services (Harvey, 2007, p.20). His ideas gained popularity in the 1980s with the election of Ronald Reagan in the United States and Margaret Thatcher in the United Kingdom, who were among the first leaders to embrace neoliberalism, advocating for deregulation, privatisation, and tax cuts (Harvey, 2005). Margaret Thatcher's statement - "It is our job to glory in inequality and to see that talents and abilities are given vent and expression for the benefit of us all" perfectly captures the essence of this ideology (George, 1999).

The free-market ideology of neoliberalism is characterised by the massive privatisation of public goods and services, solid guarantees for the right of private property, minimal government interference, individual liberties and reduced government spending. These

features promote economic growth and efficiency by allowing market economics to operate freely. However, critics argue that this approach can lead to social inequality and a lack of government intervention in areas such as healthcare and education. Overall, the debate over neoliberalism continues to be a contentious issue in politics and economics. Among the critics' arguments for free-market economic ideology are social injustice and diminishing states' obligations to guarantee economic and social rights. Neoliberalism prioritises the rules of the economy and believes that society should be managed accordingly. This ideology suggests that those who are successful in the economy should be the ones to lead and make the rules (George, 1999).

Free market ideologues claim that neoliberal policies ensure human welfare. (Block, Fred, and Peter Evans, 2005, p. 508.) However, this model and its outcomes are controversial among scholars. Opponents of this ideology argue that neoliberalism is the ground of social injustice and inequality. In 'A Brief History of Neoliberalism,' David Harvey claims that social inequality is an indivisible feature of the 'neoliberalization process.' He defines neoliberalism as a political model that aims to protect the interests of multinational corporations and economic elites. (Harvey,2007, p7)

## ***2.2. The State's Role in the Neoliberal Era: Shifting Paradigms and Implications***

Neoliberalism is a political and economic ideology that advocates for limited government intervention in the economy and the promotion of free markets. While deregulation and reducing the size of the state bureaucracy are indeed key elements of neoliberalism, I will review certain literature that critically examines the intricate connection between the state and the market, emphasising the state's function in the context of free-market scenarios.

Some proponents of neoliberalism assert that there should be a clear separation between the state and the economy, where the economic market is considered entirely independent from the state. Nevertheless, in his book "The Great Transformation," Karl Polanyi highlights the significant role of the state in the functioning market. He explains that the market economy relies on the state, state institutions, and the population. He describes the aspects that determine the market's dependence on the state. According to Polanyi, land, which is a source of capital, is provided by the state and population, labour is simply provided by people, and money depends on the trust and performance of the state management (2001, p.68-76). These factors are integral to the functioning of market economies, and Polanyi's work provides

insight into the interdependent relationship between the state and the market. Russia's experience during the transition to capitalism provides evidence supporting Polanyi's view. The importance of state institutions was evident during the transitional period, as the weakening regulations and state institutions resulted in the flourishing of crime rather than rational economic development (Block & Evans, 2018, p.505). This raises questions regarding the assumption that a market economy can function without a state. Furthermore, the case of Russia reveals the significance of the resources and services that the private business sector needs from the state. It also raises the question of whether the contribution made by businesses to the state is proportional to the benefits they receive from the state. Therefore, it is important to investigate whether the private sector's contribution to the state funds and budget aligns with its needs or is proportionate with the amount of the numbers of resources that the market consumes from the state, particularly under neoliberal policies that advocate cutting taxes and reducing public spending.

Some scholars believe that the state and the economy should function as separate realms that can operate independently of one another. The state should have a minimal economic role, allowing the free market to operate with as little interference as possible (Block & Evans, 2018). Diminishing or excluding government interference in the private business sector puts human rights at risk, leading to social injustice and inequality.

Minimal government interference and deregulation of labour markets promote the commodification of the workforce, resulting in the emergence of exploitative practices such as "modern slavery" and other forms of dehumanisation (Kara, 2017). The International Labor Organization's (ILO) Global Report 2005 revealed that over 12 million people were in some form of forced labour. Almost 90 per cent of this number is being exploited by private companies, which exhibits the threats that the business sector can pose in the absence of regulations. By 2016, the number of individuals in modern slavery had risen to nearly 25 million. The most recent data from 2021 indicates that 79 million children are engaged in hazardous work (ILO, 2022). These human rights violations are more likely to occur in the absence of regulations, which are often reduced or eliminated as part of neoliberal policies.

### ***2.3. Nature of Social and Economic Rights***

Social and economic rights are essential components of human rights, ensuring that individuals have access to basic necessities such as education, healthcare, housing, clean

water, and adequate food. These rights have a deep-rooted historical background, with many civilisations and societies recognition. Notably, during the 19th century, the Industrial Revolution spurred movements and socialist ideas, which played a role in the development of social welfare policies designed to safeguard workers' rights and enhance their living standards (Engels, 1880).

The Universal Declaration of Human Rights, adopted by the United Nations in 1948, included social and economic rights alongside civil and political rights (UNGA, 1948). However, the legal status of social and economic rights remained challenged (Freeman, 2017). During the Cold War, the USA and USSR instrumentalised human rights for their ideological war against each other. Proposals to implement binding treaties regarding human rights were postponed until the mid-1960s. A significant development in the emergence of social and economic rights was the adoption of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) in 1966(Freeman, 2017). The ICESCR is the primary international legal instrument for social and economic rights, which expands on the rights recognised in the UDHR and establishes the right to work, the right to education, the right to adequate housing, the right to food, the right to social security, and an adequate standard of living (UNGA, 1966).

The legal framework for social and economic rights is complex and varies between countries. In some countries, social and economic rights are explicitly recognised in the Constitution or other legal documents; in others, they are only implied or not recognised. The Constitution of Georgia recognises all social and economic rights enshrined by UDHR and ICESCR, though mainly it does not imply any legal remedies to establish guarantees for their enforceability. The Constitution of Georgia acknowledges Social and economic rights and mandates that Georgian laws must comply with universally accepted international law principles and standards (Constitution of Georgia, 1995). These principles and norms encompass Social rights, protected by the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), The European Social Charter and other global human rights agreements, according to which the Georgian legal system is required to meet corresponding obligations.

Upon initial examination, the relationship between human rights and neoliberal ideology appears intricate and frequently contentious. Neoliberalism, concerning human rights, poses

obstacles to their fulfilment. This political ideology gives precedence to certain rights while rejecting other fundamental ones, such as social and economic rights, as noted by Harvey (2007). This rejection becomes evident in the extensive privatisation of public services and assets, the endorsement of a minimal and feeble state apparatus, and the promotion of free markets. Some scholars contend that the neoliberal focus on individual rights and freedoms has been at the detriment of collective rights, such as the right to education, healthcare, and social security. Conversely, others argue that human rights, particularly economic and social rights, play a vital role in mitigating the adverse consequences of neoliberalism and guaranteeing equal access to essential necessities and services for all individuals.

Neoliberal ideology and human rights have certain similarities in their characteristics, according to some arguments. Samuel Moyn, in his book "Not Enough: Human Rights in an Unequal World," claims that human rights and neoliberalism share an individualistic approach that makes them incapable of addressing social inequality directly (2018). This assumption brings us to review the development of the history of human rights and neoliberalism. During the Cold War era, human rights were forced to evolve within a deeply divided world between capitalism and socialism. This period posed a significant challenge for those suffering from extreme poverty, and the issue of global inequality demanded attention. In response, the UN General Assembly initiated a New International Economic Order (NIEO) in 1974. However, this initiative ultimately faltered due to the opposition of affluent economic nations. Subsequently, neoliberalism emerged as a proposed solution to these pressing issues, with impoverished states embracing Western capitalism, as described by Freeman (2017, p. 190). Some scholars argue that poverty is not the result of globalisation, but rather it is produced by isolation from the global market economy. Some economists point out that political factors such as poor governance, corruption and conflict are the reasons that cause poverty. (Freeman, 2017, p.192)

The connection between neoliberalism and human rights becomes evident when scrutinising how human rights discourse has been utilised to rationalise neoliberal policies. Samuel Moyn asserts that neoliberalism has used the language of human rights to hide its economic agenda, which prioritises the interests of the rich and powerful over those of the poor and marginalised (2018). Advocates of Neoliberal ideology argue that this ideology promotes individual freedom and autonomy. In his book 'Capitalism and Freedom, Milton Friedman claims that the ideology of free market capitalism promotes freedom (Ashford, 2010).



However, the impact of liberal economic policy on freedom was discussed and analysed by Carl Polanyi, who said that libertarian economics and free market capitalism policies promote freedom for privileged ones and leave 'pittance' for others (Polanyi, 2001, p.257).

Samuel Moyn argues that the era of human rights has had a negative impact on distributive justice, enabling the affluent to exert dominance. (Moyn, 2018, p.2). David Harvey also writes about the ineffectiveness of human rights regarding social justice. He says that social rights are too collective and positive to suit the occurring legal architecture created by neoliberalism (2007).

#### ***2.4. How do human rights intersect with the issue of social inequality?***

Social inequality has increased significantly over the past decades and is a dangerous threat to democracy and social stability (Piketty, 2020). Economic conditions and social equality have been a subject of discussion since ancient times. Plutarch emphasised the importance of economic inequality, stating that "the longstanding and most pernicious aspect of republics is the disparity between the impoverished and the affluent." The strong and substantial middle class was highlighted as the cornerstone of democracy by Aristotle. Despite the well-established truth that economic inequality leads to poverty and directly impacts human rights, there are still no remedies to limit income or wealth inequality in human rights law. Moyn's central critique of human rights is that human rights fail to address social inequality because human rights are often focused on the sufficiency doctrine (Jones, 2021). The argument that human rights coexist in harmony alongside extreme wealth inequality raises the question of whether human right contributes to increasing poverty since poverty is an inevitable result of the unequal distribution of wealth.

Social inequality and injustice also have other dimensions apart from social matters. It impacts political representation. There is always a risk that wealthy individuals can wield disproportionate political power and influence policy in their favour, further perpetuating inequalities. The Human Development Report 2019 states, "Those privileged can capture the system, moulding it to fit their preferences, potentially leading to even more inequalities" (UN, 2019, p.11). Georgia's example exposes this tendency well while more than one-third of the members of parliament represent business elites, and the country has been run by a billionaire (oligarch) who has his influence through his money (Genté, 2022).

Moyn characterises human rights norms as a "distributional victory of the rich"; he further explains that while some people have experienced a decrease in poverty during the era of human rights, the wealthy have enjoyed even greater influence in achieving their objectives (2018). Critics argue that Moyn fails to explain why material equality is a human rights issue and questions the jurisdiction of human rights in addressing social inequality. (Jones, 2021). This perspective can be addressed through Michael Freeman's argument regarding the consequences of global inequality and poverty, which infringe upon the human right to life, an adequate standard of living, health, food, water, sanitation, and housing (2017, p. 190-196).

The UN Committee on Economic, Social, and Cultural Rights has defined poverty as a state of prolonged or recurring deprivation of essential resources, opportunities, security, and autonomy required to achieve a sufficient standard of living and exercise the human rights recognised in UN treaties. This definition highlights the idea that poverty erodes the possibility of living in dignity and fully enjoying human rights (CESCR, 2001).

The effectiveness of social rights is called into question because the realisation of social and economic rights depends on the available resources. The Covenant on Economic, Social and Cultural Rights does not clarify what could be considered as "available resources" (UNGA, 1966). In many cases, the lack of resources is used by states as an excuse for not ensuring social rights or implementing a strong state welfare system. According to Michael Freeman, it is important to closely monitor and analyse the state budget to evaluate the appropriate allocation of public funds and determine the presence of "available resources." Freeman suggests that there is an assumption that every country possesses adequate resources to meet its minimum obligations. (2017, p.169)

The obligation to ensure Human rights implicates the allocation of resources. Thus, human rights have economic implications and are significantly affected by economic policy. However, despite acknowledging the significant impact of economics on advancing and ensuring the realisation of human rights, human rights activists and scholars have not traditionally paid attention to economic policy and its implementations (Freeman, 2017, p.190).

## ***2.5. Georgia's Neoliberal Transformation***

Following its independence from the Soviet Union in 1991, Georgia experienced a turbulent period until 2003. During these years, the country struggled with economic stagnation, Russian occupation and territorial loss, a sharp rise in unemployment, increased levels of corruption and crime and a significant increase in poverty, which translated into a per capita Gross National Income (GNI) of only \$1,120 (Gugushvili, 2017). These challenges led to the need for significant transformations, culminating in the 2003 Rose Revolution.

After the revolution, a new political team introduced a revolutionary political agenda that prioritised eradicating poverty as a top priority. Georgia's economic and political journey from 2004 onwards has been symbolic of its commitment to breaking free of its Soviet past and establishing a modern state. During this period, Georgia has undergone a dramatic transformation driven by a wave of neoliberal economic reforms that have reshaped its socio-economic landscape. In a swift and radical move, the government initiated a series of reforms, implementing extreme free-market policies under the guise of poverty reduction (Steenland and Gigitashvili, 2016).

Georgia's reforms were characterised by an ambitious reduction in the size of the public sector because public bureaucracy was considered a significant obstacle to the country's development. These extensive downsizing initiatives significantly decreased the number of ministries and eliminated several oversight agencies, including labour inspection and anti-monopoly agencies (Gugushvili, 2017). The decision to abolish labour inspections in Georgia in 2006 had far-reaching implications for workplace safety. Research reveals that fatal workplace accidents increased by 74.1%. The rate of workplace-related fatalities per 100,000 workers worsened, climbing from 3.7% to 5.9%. These figures illustrate the critical role of states in regulating labour rights and the consequences of the deregulations (Tchanturidze, 2018, pp.3-4). Amid the financial sector deregulations, Georgia's credit landscape has transitioned from a credit boom to a state of widespread excessive debt, significantly affecting the lives of hundreds of thousands of people, including posing housing problems.

One of the critical aspects of these reforms was the extensive privatisation of state-owned assets, including entities classified as being of "strategic importance." This broad

privatisation initiative encompassed assets ranging from seaports and energy distribution networks to public properties such as hospitals, lakes, and forests (Gugushvili).

Tax policy has been one of the central premises of the Georgian neoliberal agenda. The inequitable tax system in Georgia, implemented in 2006, disproportionately benefits the wealthy while imposing stringent fiscal regulations. It is worth noting that despite Georgia's global ranking as the eighth-lowest in terms of taxes, this has not resulted in economic prosperity (Godari et al., 2018). These reforms have exerted a massive impact on income distribution in Georgia, with the country currently holding the unenviable position of being the eighth-most unequal nation in terms of income distribution. This highlights the urgent and substantial issue of inequality (Godari, Khundadze et al, 2018).

To mitigate socio-economic disparities, the establishment of a robust welfare state becomes imperative (Tsagareli and Chivadze, 2021). This entails a system that guarantees a minimum income for individuals and families, ameliorates social insecurity, and offers comprehensive social services that are accessible to all citizens, transcending class and status boundaries. Notably, the authors, while discussing Georgia's economic reforms, highlight a substantial discrepancy in state expenditure on education in Georgia compared to the European Union average. Georgia allocates only 3.7% of its GDP on education, whereas the EU states spend 4.7%. Consequently, with the dismantling of the state welfare system, critical elements such as education, social security, employment and healthcare have transitioned from being the responsibility of the state to becoming the burdens of individuals and families within Georgia (Tsagareli and Chivadze, 2021).

In his analysis, Gugushvili underscores the substantial impact of neoliberal reforms on economic growth and their limitations in poverty reduction. As the author suggests, this underscores the importance of implementing measures to ensure that economic growth reaches marginalised segments of the population.

# CHAPTER THREE

## 3. METHODOLOGY

### *3.1. Case Study Design*

In this research paper, my central aim has been to conduct a comprehensive examination of the ramifications of free-market neoliberal policies. To achieve this, I have employed a single case study approach, focusing on the neoliberal reforms implemented by the Georgian government over the past two decades. Additionally, I have analysed Georgia's human rights framework to assess its effectiveness in addressing these challenges. This chapter provides an overview of the research methodology utilised to investigate the research questions and objectives outlined. Given the thesis's core objective of understanding how policies impact human rights in Georgia, a qualitative method has been adopted. This approach encompasses an analysis of Georgia's social and economic political agenda spanning the years 2003 to 2023. Employing an inductive approach, I initially delved into the intricate relationship between human rights and the neoliberal agenda. Subsequently, I used a theoretical lens to develop an analytical framework.

My personal background plays a significant role in selecting Georgia as the case study. Growing up in an underprivileged community has provided me with valuable insights into the challenges of poverty, enabling me to deeply comprehend its implications and the often overlooked issues faced by marginalised populations. Additionally, my tenure with the Georgian Parliament gave me a unique firsthand perspective on the policymaking process, the ultimate beneficiaries of these policies, and the intricate dynamics between state and non-state actors driven by various interests, be they public or private. This experience also provided me with insights into the interpretation of human rights by different state and non-state entities.

In this study, my primary focus has been the analysis of Georgia's social and economic policy landscape, encompassing the years 2004 to 2023. This specific timeframe was selected due to its significance in Georgia's history, characterised by substantial political transformations

following the 2003 revolution. To facilitate this comprehensive exploration, I have adopted a case study methodology well-suited for the in-depth examination of a wide range of entities, from individuals to entire nations (Miles, 2015).

Given the intricate nature of this study, which seeks to unravel the multifaceted interactions among neoliberal reforms, human rights, and social justice in Georgia, conducting a holistic and exhaustive investigation is imperative. In this context, a single case study methodology was chosen, focusing exclusively on Georgia. This approach allowed me to explore the entirety of economic reforms in Georgia comprehensively and examine the case as a whole. The case study research design is particularly fitting for this purpose, as it enables a thorough exploration of this complex phenomenon within its real-world context, as emphasised by Yin (1994). According to Yan, this methodology has an inherent aptitude for examining detailed and contemporary phenomena with a focus on in-depth exploration, as emphasised by Yin (2018). This choice aligns with the recommendations of scholars like Feagin, Orum, and Sjoberg (1991), highlighting its suitability for addressing nuanced and multifaceted inquiries.

Georgia's case study is enriched by its captivating historical context, transitioning from communism to a neoliberal policy framework in the aftermath of the Soviet era. This distinctive historical trajectory presents a valuable opportunity to investigate the evolution of human rights in response to socio-economic reforms and their consequences within a budding democracy. The historical backdrop adds depth and relevance to my research, as it underscores how contextual factors significantly shape the phenomenon under examination (Yin, 2018, p. 15). The choice of a case study design is particularly well-suited, given the historical context's influential role, especially when contextual factors are integral to the subject of inquiry.

The case study approach is exceptionally well-suited for investigating events while taking into account the perspectives of diverse social classes rather than focusing exclusively on the "elite," as emphasised by Feagin, Orum, and Sjoberg (1991). Considering that many scholars argue that the Free Market Ideology primarily benefits privileged individuals, leaving others left behind, and given that social rights, a topic under scrutiny, are often constrained for those living in poverty, it becomes imperative to scrutinise these policies from the vantage point of vulnerable and less influential segments of the population. Case studies are widely recognised for their ability to facilitate multi-perspectival analyses, ensuring that the voices of

marginalised and less powerful segments of society are not excluded (Feagin, Orum, & Sjoberg, 1991).

The selection of the case study methodology is purposeful and apt, as it aligns with the suitability of thoroughly examining a specific case, in this instance, Georgia, within a well-defined spatial and temporal framework (Miles, 2015). To comprehensively address the research questions at hand, I have employed a qualitative method. My objective is to conduct a thorough exploration of Georgia's unique experiences and, through empirical analysis, unveil the profound impact of the free-market ideology on our lives.

Case study research often raises concerns about the limitations of generalising from a single case. However, case studies excel in process tracing to establish causal links between factors and outcomes, enabling the development and testing of historical explanations within specific contexts, making them particularly suitable for theory development (George and Bennett, 2005, pp. 6–9). While this case study focused on Georgia's transitional reforms and followed an inductive approach, the concept of generalisation may become relevant as it highlights the challenges arising from the free-market ideology and the shortcomings in human rights law. These issues could potentially be similar in many other states, particularly those with the same historical background, such as post-Soviet states.

The selection of the case study methodology is purposeful and apt, as it aligns with the suitability of thoroughly examining a specific case, in this instance, Georgia, within a well-defined spatial and temporal framework (Miles, 2015). To comprehensively address the research questions at hand, I have employed a qualitative method. My objective is to conduct a thorough exploration of Georgia's unique experiences and, through empirical analysis, unveil the profound impact of the free-market ideology on our lives.

### ***3.2. Data Materials***

In the context of this research question, my approach has involved a comprehensive investigation into various sources of evidence related to policy papers, political events, and legislative changes that have transpired in Georgia since 2004. This methodology has been aligned with Yin's (2018) recommendation for case study research, emphasising the importance of employing multiple sources of evidence to ensure construct validity. Yin

(2018) outlines six primary sources of evidence essential for case study research: Documentation, Archival records, Interviews, Direct observation, Participant observation, and Physical artefacts. Given the complexity of the subject matter and the specific research goals, I have chosen not to conduct interviews. Instead, I contend that a detailed examination of documents such as policy papers, legal documents, and official acts represents a more suitable approach for this study.

The choice of utilising documents as a primary source of analysis presents several advantages. Firstly, it is straightforward, efficient, cost-effective, and manageable. Unlike data collected from human subjects, working with documentary data often requires little or no cost, reducing the financial burden on the researcher. Moreover, this approach often obviates the need for extensive ethical approvals to access the data. This expedites the research process while minimising ethical concerns associated with human subjects' data collection.

One of the primary concerns raised by scholars regarding the case study methodology is the use of anecdotal data. Scholars, such as Donald Campbell (1975), have voiced scepticism about the potential bias inherent in case studies. Hans Eysenck (1976, p. 9) initially characterised case studies as generators of anecdotes. While the concern of bias is legitimate, I have taken steps to mitigate this risk by conducting a comprehensive analysis of official documents, policy papers, and legal acts. This approach significantly reduces the potential for bias in the research.

The qualitative analysis presented in this paper is primarily centred on policy documents. To effectively employ this method, it is essential to grasp the nature and purpose of policy documents. In this context, it is important to note that the Parliament of Georgia plays a pivotal role in shaping the country's policy direction. For any policy to be enacted and implemented in Georgia, it must undergo the process of being adopted as a legally binding legislative act. This can take the form of a bylaw, a law, an organic law, or a constitutional law in accordance with the Georgian Law on Normative Acts.

I have scrutinised the reforms in various domains, encompassing the management of state assets and privatisation, tax policy, the economic parameters of the country, and the deregulation package, including regulations related to financial institutions and labour rights. Therefore, I explored the following materials along with explanatory notes and policy papers:



1. *The Law on State Property, 2010; Law on the privatisation of state property (legislative changes - 2006);*
2. *The Organic Law on The National Bank of Georgia (legislative changes -2008);*
3. *legislation related to the Enforcement;*
4. *Tax Code with its amendments (2006, 2007, 2008);*
5. *Constitution of Georgia, Constitutional amendments (2010, 2018);*
6. *Liberty Act - The Law on The Economic Freedom;*
7. *Labor Code, 2006; Labour Code 2018;*
8. *Decree of the President of Georgia on the Amount of Minimum Wage, 1999;*
9. *Human rights reports published by the Ombudsman office, Human Rights Watch, UNICEF; News, articles;*
10. *Cases from the practice of the Constitutional Court of Georgia:*
  - a) *Denmark Heike Cronqvist vs the Parliament of Georgia;*
  - b) *Public Defender of Georgia vs the Parliament of Georgia;*
  - c) *Citizen of Georgia Tamar Tandashvili vs the Government of Georgia;*
  - d) *Darbiniani vs Parliament of Georgia;*

The analysed data primarily consist of official acts obtained from official government websites. The fact that these used in this research paper have been published on official state websites and are regularly updated enhances the reliability of the sources utilised in this research.

Employing policy papers, legal acts, explanatory notes, and legislative documents is a highly reliable approach that minimises bias. Legislative acts, in particular, leave minimal room for broad interpretations. This method enhances the robustness and objectivity of the research materials, ensuring that the analysis is based on concrete and well-defined legal foundations. This not only increases the reliability of the study but also aids in maintaining an objective perspective throughout the research process.

To illustrate the connections between the initial research inquiries, the findings, and the eventual conclusions derived from the case study, I created a comprehensive database (see Annex 1). This database visually represents the connections between the collected evidence, research questions, theoretical framework, and resulting conclusions. This approach ensures a clear and organised presentation of the research's progression and outcomes.

# CHAPTER FOUR

## 4. Theoretical Framework

In this section, I lay the foundation for the theoretical framework, drawing from scholars in the field of social and economic political doctrines. For the first research question, which delves into the challenges posed by neoliberal reforms to human rights, I will expound upon theories related to neoliberal ideology and its implications for social justice and human rights. As for the second research question, which seeks to evaluate the effectiveness of socioeconomic rights and scrutinise the characteristics of second-generation rights, I will present relevant theoretical frameworks that review the challenges related to positive rights and their enforceability.

### *4.1. Neoliberal Ideology and its Main Characteristics*

Neoliberalism is a worldwide dominant economic and political ideology in the modern world. Scholars identify several key elements of the neoliberal political ideology, which include massive privatisations, a streamlined and minimal state apparatus, tax cuts, market deregulation (promoting a free market), and reduced government intervention. These elements collectively form the core principles of neoliberalism and underpin its influence on economic and political systems worldwide (Saad-Filho and Johnston, 2005).

Proponents of neoliberalism argue that it is a political ideology that ensures the welfare of people because the free market can deliver better outcomes. However, the model and its consequences have sparked intense debates in academic circles. Critics of neoliberalism argue that it promotes social injustice and inequality and that this free market ideology primarily benefits privileged groups at the expense of the working class. In 'A Brief History of Neoliberalism', David Harvey describes neoliberalism as a political philosophy that prioritises the protection of multinational corporations and wealthy elites. He claims that social inequality is an integral part of "neoliberalisation" (2007). Milton Freedman argued that the only way to promote a state welfare system and achieve freedom is free market

economic policy (Harvey, 2007). Karl Polanyi claimed freedom could be achieved only by privileged people but not by others.

#### ***4.2. Neoliberalism and the State's Role***

The role of the state is pivotal in protecting and ensuring human rights. Weakening the state's power can significantly affect human rights for two main reasons. Firstly, as a result of deregulation and diminishing state power, individuals are left more vulnerable to market forces, as they do not have the protection and support provided by the state when dealing with powerful market forces. It raises concerns as neoliberal ideology suggests that those who are successful in the economy should be the ones who lead and make the rules (George, 1999). Secondly, the state plays a crucial role in allocating resources and ensuring the realisation of social rights, such as access to healthcare, education, and other essential services. Stiglitz highlights that processes such as tax cuts, deregulation and privatisation have led to reduced government spending on critical social programs, consequently leaving marginalised communities without access to fundamental necessities like healthcare, education, and adequate housing (Stiglitz, 2019).

In this context, I will delve into the state's role from a neoliberal perspective, exploring further how this ideology shapes the relationship between the state, market forces, and human rights. Free market advocates consider the state and the economy as two independent and distinct spheres. The identification of the market economy as an autonomous realm aims to minimise the state's interference in the market. Advocates of this ideology argue that the economy and the government should operate as distinct and self-sufficient realms. This argument leads to theoretical discussions about to what extent the private sector could have autonomy and "how large or small the state's role in the economy should be" (Block and Evans, 2018). Neoliberal proponents argue that a lack of government interference promotes economic development (Block and Evans, 2018). However, opponents of minimal government interference assert that minimising or excluding state regulations jeopardises human rights and produces social injustice.

In the academic debate over the weak state concept, Alison Brysk suggests a different perspective in her paper "Human Rights and Private Wrongs" (2013). She describes that the weakening process of states follows by delegating the power from the state to other non-state actors, such as civil society organisations. Brysk further describes this process and writes that

it was justified by the fact that state power had been the source of the horrors of the twentieth century and that civil society is the solution to the problem (2013). Building on this perspective, the delegation of state power to non-state actors, including the delegation of authority over human rights violations, raises significant concerns. In a democratic society, citizens typically have more oversight and control over the state compared to non-state actors. Paradoxically, as states weaken, non-state actors such as businesses, banks, private investors, and multinational corporations gain substantial power. This power can potentially be exercised in ways that lead to human rights violations while also providing these actors with influence and leverage over state institutions due to their role as primary sources of capital and their ability to fund or sanction governments. As Brysk elaborates it, globalisation has contributed to the delegation of authority to private actors, potentially resulting in the "abuse" of human rights (Brysk, 2013).

The shift in power from governments to private economic actors, as advocated by neoliberalism, raises serious concerns about international human rights law. By reducing the role of governments in regulating economic activity, the ability of states is undermined to fulfil their human rights obligations.

Furthermore, it is essential to recognise that the market economy cannot operate independently, as it heavily depends on the state. The market itself benefits from state services, public goods, and collective efforts. As Karl Polanyi articulates, market economies rely on crucial elements like land, labour, and currency, all provided and regulated by the state. He describes labour as the activity of people, land as the capital provided by states and populations, and money relies on the "full faith and credit" of state authorities (1980, pp. 68-76). The functioning of the state apparatus is essential for the market. However, it is interesting to see whether the contribution of the private market to the state budget is proportionate to its needs. At the same time, neoliberal policies constantly promote tax cuts and call for a reduction in public spending.

#### ***4.3. Massive Privatisation and the Concept of 'Exclusion'***

In her paper titled "Being Bold about Rights in a Neoliberal World," Audrey Chapman argues that privatisation is a fundamental element of the neoliberal agenda. According to Chapman, neoliberalism promotes the extensive privatisation of public assets, natural resources, infrastructures, and public services. This can involve either selling these assets or delegating

their management to private business entities (2019). The commercialisation of essential livelihoods primarily results in limited access to resources and services, the concentration of wealth among the economic elites, and the exclusion of individuals from accessing and taking benefits from them.

In the context of large-scale privatisations, scholars commonly use the term "exclusion" in academic literature to describe the ongoing process of limiting access to basic livelihood. Scholars such as Hall, Hirsch, and Li have drawn attention to the fact that natural resources, specifically land, are often a key area of focus in this exclusion process. The land is considered "excludable" when it is possible to restrict access to it and prevent people from benefiting from it (Hall, Hirsch and Li, 2011).

Access to land has also been discussed from a human rights perspective. The High Commissioner for Human Rights reported that the enjoyment of human rights is directly affected by the lack of access to land (OHCHR, 2015). The process of large-scale land acquisition, commonly known as land exclusion, can have significant social and environmental consequences. It could be a significant human rights concern, especially considering that land often serves as a primary source of food for rural populations. These impacts particularly occur in states where there is a lack of deregulations and minimal state management. "Forceful exclusion of peasant populations" is a result of neoliberalism and capitalism by commodifying and privatising land, according to David Harvey, who discusses land from a Marxian economics perspective (Harvey, 2007, p.159). Scholars define "exclusion" as a mechanism that hinders individuals from benefiting from resources, building upon the concept of access, which refers to the ability to derive advantages or benefits from certain things. This understanding highlights how exclusionary practices aim to prevent people from accessing and benefiting from resources (Hall, Hirsch and Li, 2011).

The points mentioned above raise concerns about the implications and outcomes of property rights. Marx considers private property and wealth sources of unequal distribution and social inequality. The robust protection of property rights, coupled with capitalist or neoliberal policies, has led to a significant wave of privatisations, including valuable natural resources like land. Karl Polanyi argues that land is not a mere commodity but the foundation of life (Polanyi, 1980). The privatisation of land results in a situation where a large number of people lack access to basic subsistence while a few individuals accumulate vast amounts of

land (Hall, Hirsch and Li, 2011). This process exemplifies the concentration of wealth in the hands of economic elites (bourgeois) and the exclusion of others from benefiting.

#### ***4.4. Private Property in the Midst of Neoliberal Reforms***

Private property is not exclusively a neoliberal product, but it does hold a central place within its principles. Neoliberal ideology emphasises the importance of private property rights and opposes regulations that could limit them. Therefore, it is crucial to examine the implications of private property for this research. Some scholars argue that the nature of property rights tends to exclude others from enjoying this right. The promotion of property rights accompanies the dispossession and exclusion from access to it by others (Sikor and Forsith, 2013). There is also another view that claims that ownership does not necessarily exclude other people (not owners) from accessing to the property. Access is defined "as the ability to benefit from things." It focuses on enabling people to benefit from it, whether they own it or not (Ribot and Peluso, 2009). Both arguments are logical, though no one can deny that the right of private property puts accessibility at risk.

According to Marxist theory, individuals' freedom and right to property, guaranteed by human rights, serve as a tool for the bourgeoisie to liberate themselves from various restraints and establish themselves as the ruling class. (Marx and Engels, 1848). Given the definition of the bourgeois class, it can be applied to the modern economic elites within neoliberal economics. Private property, through the Marxist lens, gives the bourgeoisie greater power to have a monopoly on the labour market and to oppress and exploit the proletariat in a severe and exploitative manner. (Marx and Engels, 1848).

According to Marx, Private property, while giving privileges to individuals, also leads to the exclusion of others. He discusses private property from a human rights perspective and explains that "natural and imprescriptible rights for equality, liberty, security, and property" do not lead to freedom for the general population but benefit specific circles that possess property (Marx, 1844). Engels further developed Marx's arguments, suggesting that human rights were expected to eliminate inequality, oppression, and injustice as proclaimed at birth. However, these rights primarily served as guarantees for the bourgeoisie classes, creating an ideal realm where injustice and inequality within the bourgeoisie class were mitigated. Most significantly, the bourgeoisie obtained robust assurances of their right to property by enshrining it as one of the fundamental rights (Engels, 1880).

#### ***4.5. Public Welfare in the Neoliberal Era***

Economic policies have always played a significant role in shaping state welfare systems. Among scholars, there exist two main arguments regarding this matter. One perspective, espoused by liberals, asserts that the welfare of society can be achieved only through the free market and economic growth. According to proponents of free market ideology, this model promotes human welfare by relying on market mechanisms rather than state intervention (Block & Evans, 2018, p.508); According to them, the presence of highly developed public welfare systems in Western Europe has been associated with slower economic growth and higher levels of unemployment (Block and Evans, 2005). However, In his paper, David Harvey argues that mere economic growth does not necessarily result in improved public welfare. Through empirical analysis of various examples, he highlights that economic growth alone is insufficient to ensure the public's well-being. In his view, the mere expansion of productive capacity does not necessarily translate into higher per capita income, as this phenomenon contributes to social inequality (2007).

The political ideology of neoliberalism promotes policies such as tax cuts and decreased public funding. These measures potentially put the allocation of public resources crucial for ensuring state welfare at risk. By advocating for reduced government involvement and a smaller public sector, neoliberalism limits the available funds and resources necessary to support social programs and initiatives to promote citizens' well-being. A weak welfare system exacerbates social inequality more. (Harvey, 2007).

#### ***4.6. Neoliberalism and its Implications for Human Rights***

David Harvey claims that the emphasis on private property rights, the privatisation of public services and assets, as well as deregulation, have contributed to heightened social inequality and poverty, consequently resulting in various human rights violations (Harvey, 2007, p. 7). Freeman also identifies globalisation as a threat to human rights as economic globalisation prioritises profit over human rights, which can lead to injustice (Freeman, 2017, p.191). This discourse questions human rights' capability of addressing those challenges discussed above.

Harvey argues that the free market economic ideology primarily benefits the economic elites and does not adequately address social rights because these rights are too collective for this free market ideology. In academic discussions, many scholars influenced by Marxist

ideology propose that human rights can be seen as primarily serving the interests of the bourgeoisie. This perspective has gained significant attention, especially during the era of neoliberalism. Proponents of this perspective argue that under neoliberalism, the bourgeoisie and higher economic classes gain more advantages from human rights compared to the working class, reflecting elements of Marxist theory. Karl Marx, in his work 'On the Jewish Question' from 1844, asserts that human rights primarily pertain to egoistic individuals, those motivated solely by personal interests and greed. According to Marx, human rights tend to neglect the collective dimension of society, focusing mainly on individuals. Furthermore, Marxism contends that human rights can contribute to the societal division between exploiters and the exploited, thereby reinforcing the dominance of the bourgeoisie. This theory is valuable for critiquing the dominant individualistic nature of liberalism and advocating for the prioritisation of social and economic rights. Prioritising these rights is essential to ensure that basic human needs are met (O'Byrne, 2019).

This theory is applicable to analyse the intricate relationship between human rights and neoliberalism as the distinction between the bourgeoisie (economic elites) and the working class becomes evident when we compare the experiences of privileged and disadvantaged social groups' enjoyment of positive and negative rights under neoliberal economics. In theory, positive rights should be guaranteed for all, but in practice, only the privileged can fully enjoy them. The liberal approach to positive rights often obstructs access to these vital resources, resulting in a lack of access to healthcare, education, housing, and nutrition. Moreover, this inequality in access to basic essentials has ripple effects on the enjoyment of civil and political rights. For example, homelessness or a lack of education can act as obstacles to the realisation of civil and political rights, hindering individuals' access to justice or their ability to exercise their political rights fully.

#### ***4.7. Social and Economic Rights: Features and Realities***

Social and economic rights are critical for promoting human dignity and well-being but are also subject to significant criticism. Some scholars claim that socioeconomic rights are not human rights because they depend on the implementation through state institutions. (Freeman, 2017) Critics also argue that these rights are legally uncertain, difficult to enforce, and require significant financial resources. Political polarisation and ideological differences can also undermine efforts to realise these rights. At the same time, measuring progress in their realisation is challenging. Addressing these criticisms will require a coordinated effort



by governments, civil society organisations, and international institutions to ensure that social and economic rights are effectively realised. (Cohen, 2013). Moyn argues that human rights are "minimalist and sufficientarian"; their goal is to ensure that no individual falls below a certain minimum standard (Moyn, 2018). However, it is still interesting whether minimum obligations are enforceable, specifically in Neoliberal economic countries.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) assumes that every state has the necessary resources to meet its fundamental obligations. However, a significant question still needs to be answered: how are economically disadvantaged states expected to fulfil their commitments under this covenant? Commonly, the responsibility of fulfilling economic and social rights is limited to the jurisdiction of the state, and there is a weak obligation to assist individuals beyond these borders. Assistance as development aid is still considered a charity or voluntary policy rather than an obligation under human rights law (Freeman, 2017).

The exception related to "available resources" could potentially be manipulated as a rationale for failing to guarantee social and economic rights. Thus, states have frequently exploited this feature of available resources to justify their non-compliance with these rights. To prevent this manipulation by states, Freeman proposes that a closer examination of state budgets from a human rights perspective can help uncover the correlation between government spending or GDP and expenditure on social rights. This highlights the complex link between economic policy and human rights. Nickel contends that human rights advocates have not given adequate attention to the "costs of respecting rights" because this falls under the purview of economic policy rather than conventional human rights law. Consequently, the pursuit of "progressive" development, as outlined in the ICESCR, entails the implementation of economic policy rather than simply fulfilling human rights (Nickel, 1993). Implementing human rights requires resources, which means that human rights have economic implications. Economic policies can be assessed based on human rights criteria. However, scholars and activists in the field of human rights have ignored economics, and economists, for the most part, have not expressed interest in human rights. (Freeman) As Freeman suggests, the allocation of resources should be a subject of human rights concern (Freeman, 2017).

The matter of "costs of respecting rights" has been a subject of extensive academic debate, with the prevailing notion that social rights are inherently expensive. However, Donnelly and

Shue argue that protecting civil and political rights can incur significant expenses. The obligations associated with social rights, such as the right to health, do not necessarily entail higher costs compared to civil and political rights. For instance, ensuring the right to a fair trial may, in fact, be more expensive than implementing certain public health measures (Freeman, 2017).

The concerns surrounding the enforceability and dependence on the economics of social rights raise questions about their practical application. However, there is substantial evidence to suggest that more than 100,000 legal decisions have been rendered on these rights, as estimated by experts (Langford, 2009: 91). While some argue that judges may not have the necessary expertise or legitimacy to make decisions involving significant "budgetary implications", judges are frequently involved in cases with substantial financial consequences, such as those related to civil and political rights, including the detention of suspected terrorists. Moreover, lawmakers often provide broad economic and social rights descriptions, leaving judges to provide further clarification. As a result, the assertion that legalising economic and social rights transfers authority from democratically elected legislatures to unaccountable judges is only partially accurate (Freeman,2017).

The argument that the legal recognition of economic and social rights results in an inappropriate transfer of power from elected legislatures to unaccountable judges is not entirely accurate. However, there exists conflicting evidence regarding whether the "constitutionalisation and judicialisation" of these rights lead to an improvement in their implementation. This contradicts the notion that legal recognition alone will enhance the enjoyment of these rights and underscores the importance of determining the most effective combination of political activism and judicial action to ensure these rights are realised (Freeman, 2017). While making these rights legally enforceable may have saved and improved many lives, it's clear that a combination of political and legal approaches may be the most effective way to achieve these rights (Freeman, 2017).

When discussing the nature of social rights, it is worth considering whether a negative approach should also be applied alongside a positive one. Some argue that there is no theoretical differentiation between the right to be free from torture and freedom from hunger. Both could be considered negative rights protected from harm or positive rights that require assistance. Civil and political rights impose both positive and negative obligations. For

example, the right to be free from torture binds everyone not to torture others and to prevent torture reasonably. All rights necessitate institutions to enforce them and, therefore, require financial resources.

Some scholars argue that social rights are the same as first-generation rights and should be subject to judicial enforcement (Freeman, 2017). This argument is based on the idea that social rights are not exclusively positive but can also be framed as negative rights. A negative approach would require states to refrain from actions, including implementing policies that violate human rights guaranteed by law and prohibit states from engaging in activities that jeopardise social rights. These activities could include actions like eviction from housing or implementing economic reforms with adverse consequences (Freeman, 2017). Therefore, Economic and social rights entail negative duties and may not necessarily be costly; governments can fulfil the right to housing by not demolishing homes. It has become common to distinguish between the obligation to respect rights (to avoid violating them), protect rights (to ensure that others do not violate them), and fulfil rights (to guarantee that everyone can enjoy them). The obligation to respect is negative for all rights, while the obligation to fulfil is positive. All three types of obligations may be negative and positive. Some philosophers argue that duties to people experiencing poverty include the negative duty not to cause harm and the positive duty to assist. (Freeman, 2017) This theory should extend to the policy-making process, advocating for the application of a human rights-based approach to economic policies. Such an approach would serve as a check on the influence of neoliberal ideology.

# CHAPTER FIVE

## 5. Findings and Analysis

In this chapter, I will examine the documents that policymakers in Georgia have adopted as part of their neoliberal political agenda. These documents shed light on the substantial shifts within the neoliberal agenda and introduce the key features of the reforms implemented in Georgia. For the scope of this research, I have chosen to focus on these materials from a human rights perspective to identify the potential threats to human rights that may arise from the implementation of these policy papers. Pieces of evidence presented in this chapter serve as a response to the first research question.

In 2004, the government embarked on rapid and revolutionary reforms to tackle poverty. Under the new political agenda, the government initiated a significant reduction in the size of the state and market deregulation. The number of public servants was nearly cut in half, and licenses and permits decreased from 900 to 136 (Gugushvili, 2017). The Georgian government aimed to create a business-friendly environment by implementing reforms that offer low taxes and minimal regulations as incentives. The economic policies implemented in the country steered it toward a brand of extreme neoliberalism that has astounded numerous experts. As one observer remarked, "Even Friedrich Hayek would be taken aback by the extreme neoliberalism in Georgia" (Carr, 2016).

### ***5.1. Privatisation as a Threat to Human Rights***

In 2004, the government launched a massive privatisation plan to sell almost all public assets, including state-owned enterprises and public services. This initiative was accompanied by a political statement from the State Minister of Economic Reforms, who declared that "everything should be sold except conscience" (Civil. ge, 2004). As a result of these reforms, Georgia gradually transformed into one of the most liberal economies globally.

In 2007, Georgia began transferring public goods and services to the private sector as part of an ambitious plan. The Government achieved this by introducing substantial amendments to the Law on Privatisation. These changes aimed to expand the entities that could be privatised and simplify the privatisation process. As a result of the reforms, the new 'Law on

Privatisation of State Property'<sup>1</sup> allowed the government to privatise entities and assets that have strategic importance. These changes enabled the privatisation of previously protected objects such as railway tracks, power supply systems, water supply infrastructure, sewage networks, the national postal service, broadcasting equipment, preschool institutions, essential state medical centres, administrative buildings, and even state cemeteries (Parliament of Georgia, 2006).<sup>2</sup>

This legislation signified the commencement of a shift in the state's privatisation framework. The government launched an extensive privatisation plan, offering numerous previously protected assets for sale to private entities and investors. This shift in policy and the resulting wave of privatisation had far-reaching implications for Georgia's public infrastructure and the delivery of essential services. This research examines key cases in which state actors initiated the privatisation of public assets and services. These cases serve as illustrative examples of the multifaceted impact of privatisation on human rights and the well-being of the population.

The new legislation failed to provide any provisions or requirements to address crucial issues such as environmental protection, public health, or workers' rights in the context of privatisation. A clear example highlighting this regulatory gap is the case of Bolnisi Municipality. After the privatisation of the Madneuli Gold Mining entity in 2005, located in Bolnisi, the new owner initiated mining operations that gave rise to significant health concerns within the local community (Nation Georgia, 2020). A troubling trend emerged in this region, where 30% of the local population began experiencing health issues (Radio Tavisupleba, 2022). The executive director of the Medical Center, who examined these health concerns, underscored the severity of the situation, emphasising that these medical cases were concentrated near Kazreti, where the primary mining operations occurred, and local residents were exposed to these risks. (Green Alternative, 2007).

The lack of specific regulations and mandatory requirements that would compel private corporations to uphold human rights and environmental standards raises significant concerns, particularly regarding labour rights. The case of privatisation of Manganese and Coal extraction companies, as seen in the case of the Chiatura Manganese extraction in 2007,

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<sup>1</sup> Concurrently, they implemented the Law on Foreign Investments with the aim of attracting international capital to the nation.

<sup>2</sup> This law was subsequently replaced by the Law on State Property, although the regulations pertaining to privatisation remained unchanged.

serves as an illustrative example. The Ministry of Economic Affairs had promised that this privatisation decision would lead to additional job opportunities, economic development in the region, and improved working conditions within two years (Green Alternative, 2007). However, the outcome was quite the opposite, as the privatisation resulted in worker exploitation and severe violations of their rights. Tragically, Chiatura has witnessed numerous distressing incidents. Human Rights Watch (HRW) underscored the gravity of the situation with the report, "No Year without Deaths: A Decade of Deregulation Puts Georgian Miners at Risk." In addition to the hazardous working conditions and a troubling number of fatal accidents, this mining entity has been accused of exploiting its workers (HRW, 2014). The lack of adequate minimum wage requirements worsens the exploitation in the mining of manganese, which is the only source of income for the municipality. As a result, workers have no other option but to work in this industry. (OSGF, 2023).

Taking all these factors into consideration, it becomes evident that the privatisation of specific entities in the context of broader deregulation in the country poses a substantial risk to human rights. The absence of regulations pertaining to labour rights and safe working conditions emphasises the importance of responsible privatisation. Consequently, it is imperative that the legislation that regulates privatisation - Law on Privatisation of State Property, at the very least, should outline the minimum responsibilities that private corporations must uphold when acquiring ownership of public assets and resources.

Additionally, when there is no alternative source of livelihood for the local population, the state should take these risks into account when privatising entities or natural resources that serve as the sole source of income for the local community. Indeed, the transformation of state companies that once served as the primary source of income for residents into profit-driven enterprises introduces potential risks, including environmental pollution and unsafe living conditions for local communities. The privatisation of "Chiatura Manganese" is a classic example of the privatisation risks, as this case led to severe human rights violations, including infringements on the right to life and worker exploitation. The privatisation of "Chiatura Manganese" and its associated repercussions can be analysed through the perspective of critics of private property and Marxist beliefs, which argue that private property can be a source of exploitation. The transfer of assets from public to private ownership resulted in the described outcomes, highlighting the challenges and human rights concerns that can arise from such privatisation processes.

With the privatisation agenda, Georgia's government has transferred to private business most of the critical medical centres, including the state's leading hospitals, that had a crucial role in ensuring access to healthcare. These privatisation acts were justified on the premise that they would enhance the medical sector (Medportal, 2009). However, the result was contrary to the public interest, as the conversion of healthcare facilities into profit-driven enterprises shifted the focus from public health to business interests, resulting in reduced access to healthcare services and the exploitation of medical professionals.

The list of assets transferred to private ownership includes water supply services, which were transferred to private corporations in 2008 (Netgazeti, 2010). The privatisation of essential services like water supply could directly affect the right to access adequate water. The potential risks associated with privatising critical resources like water have been well-documented and substantiated in the "Report of the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation" (OHCHR, 2020). This comprehensive report delves into the human rights implications of privatising water and sanitation services. It identifies specific human rights risks associated with the provision of these services by private operators. These risks emerge from a complex interplay of three key factors: the pursuit of profit maximisation, the inherent natural monopoly, and the disparities in power. These factors together contribute to the development of a conceptual framework that enables the critical assessment of privatisation concerning its potential impact on human rights (OHCHR, 2020).

The solid guarantees of property rights, along with capitalist or neoliberal policies, have triggered a substantial wave of privatisations, which encompass valuable natural resources like land. In 2010, the Law on State Property was adopted, laying out the regulations governing the privatisation of state-owned assets, including agricultural land (Parliament of Georgia, 2006). This approach introduced inherent risks, primarily revolving around the potential concentration of property in the hands of a few individuals while simultaneously excluding the broader society from access to and benefits from these lands.

The High Commissioner for Human Rights reported that the enjoyment of human rights is directly impacted by the lack of access to land (OHCHR, 2015). The process of large-scale land acquisition, often referred to as land grabbing, can lead to significant social and

environmental consequences, especially in farming communities or protected forests. These impacts are particularly enunciated in states where there is a lack of regulations and limited state oversight. The "forceful expulsion of peasant populations" is a consequence of neoliberalism and capitalism, primarily driven by the commodification and privatisation of land (Harvey, 2007). Hall, Hirsch, and Li have also emphasised that natural resources, particularly land, are a central area of focus in this exclusion process(2011). This issue becomes a significant human rights concern because land is not merely a commodity, but it is the foundation of life, as highlighted by Polanyi (1980).

Through adopting these regulations, Georgian policymakers have fostered a situation where a large segment of the population lacks access to basic subsistence while a select few individuals accumulate extensive land holdings (Hall, Hirsch, and Li, 2011). This process serves as a prime example of the concentration of wealth among economic elites (bourgeois) and the exclusion of others from reaping the benefits. This concentration of wealth aligns with the perspectives of Karl Marx, who viewed private property as a tool for exploiting the working class. Scholars have often used the term "exclusion" to describe the process of restricting access to basic livelihoods. In the case of land privatisation, the land becomes "excludable" when access to it is limited, preventing people from benefiting from its resources. This further underscores Marx's perspective on the historical conflict between oppressors and the oppressed (Marx, 1844). Marxism contends that the right to property and the protective rights associated with it perpetuate the exploitation of the disadvantaged class. According to Marx and Engels, the liberation of the proletariat, both exploited and oppressed, cannot be realised within the framework of property rights (Marx & Engels, 1848).

The analysed findings reveal the following concerns that arise as a result of privatisation, particularly in Georgia's case:

- Exclusion and unequal distribution: Privatisation often leads to exclusion from taking benefits from public goods and assets (Hall, Hirsch and Li, 2011). at the same time, it results in the concentration of the wealth in a small number of individuals. Both lead to social inequality, poverty, and lack of access to basic livelihoods (Harvey).
- Exploitation and Violation of Workers' Rights: When private companies are solely profit-driven, they may sometimes prioritise cost-cutting measures that negatively affect workers. This can lead to poor working conditions, low wages, and violations of labour rights as it happened in Georgia's case. This risk is particularly alarming



amid reducing or eliminating government oversight and regulations in a particular industry (Brysk, 2013). The findings align with the idea that private property, when not properly regulated or when it is utilised solely for profit, can lead to inequality and exploitation, as advocated by Marxist theory. These factors underscore the need for careful consideration and regulation when it comes to privatisation, especially in critical sectors where human rights and social welfare are at stake.

- Profit Maximisation: In the private sector, the primary objective is often framed as profit maximisation, where service providers aim to maximise their net gains through cost reduction, increased revenue, or a combination of both. While cost reduction can result from improved efficiency, expanding services can lead to higher revenues without necessarily raising prices or excluding impoverished communities. Nevertheless, empirical evidence doesn't consistently support the idea that privatisation results in more efficient pricing. Pursuing revenue maximisation can also raise concerns about affordability for those with human rights interests in these services (OHCHR, 2020).
- Power Imbalances: Power imbalances between private providers and public authorities are common and can lead to human rights issues. Local authorities may enter into concessions without the technical expertise and precise information required to negotiate contractual obligations for the long term. They might also lack the political and financial leverage necessary to secure favourable terms in negotiations with multinational corporations or to prevail in intricate and protracted legal disputes when conflicts arise (OHCHR, 2020). This can also result in a situation where the state becomes subordinate to corporations. Private actors, with their greater capital and influence in the market, can find themselves more powerful than the state. (Brysk, 2013)

The commercialisation of essential livelihoods primarily results in limited access to resources and services, the concentration of wealth among the economic elites, and the exclusion of individuals from accessing and taking benefits from them. Privatisation involves transferring ownership or control of public assets, services, or facilities to private entities. The key argument for privatisation is often the belief that the private sector can manage resources more efficiently than the public sector. However, as Georgia's case shows, it can also lead to problems when private entities prioritise profits over other important considerations. In conclusion, privatisation, a core component of the neoliberal agenda in

Georgia, has far-reaching implications for human rights, including access to essential services, labour rights, environmental protection, and 'land exclusion'. The concentration of wealth among economic elites, coupled with exclusionary practices, raises serious concerns about the effects of privatisation on human rights. The absence of legal requirements for private corporations to uphold human rights exacerbates these challenges. Critics argue that the emphasis on private property rights, the privatisation of public services and property, and deregulations have contributed to social inequality and poverty, leading to various human rights violations (Harvey, 2007). The evidence presented in this chapter supports this argument.

### ***5.2. Is Private Property a Potential Threat to Human Rights?***

As part of my research, I will delve into the essence of private property. It is crucial to emphasise that private property is not solely a product of neoliberalism; however, it stands as a fundamental cornerstone of this ideology. This examination is especially intriguing given the tangible consequences of private property within the framework of neoliberal reforms, which encompass deregulation, tax reductions, privatisation, and the weakening of state institutions, particularly in Georgia's post-Soviet context.

The Universal Declaration of Human Rights (Article 17) has recognised the importance of property rights. UDHR recognises that individuals have the right to own property either by themselves or in partnership with others. Additionally, it states that no person should be deprived of their property without a legitimate reason. Although Western states managed to incorporate provisions safeguarding private property in the non-binding Universal Declaration of Human Rights (UDHR), they did not achieve the same level of consensus on this matter in the legally binding International Covenants adopted by the General Assembly in 1966. However, the European Convention on Human Rights did include the right to property as an additional protocol. It is worth noting that this protocol defines property rights narrowly, specifically focusing on the peaceful enjoyment of possessions. The ECHR is ratified by Georgia. The right to property is also guaranteed by the Constitution of Georgia (article 19), which establishes strict rules for expropriations (Constitution of Georgia, 1995). By establishing the right to property as a fundamental human right and implementing stringent protections, neoliberal economic ideology is reinforced. However, this recognition of property rights raises concerns about the ability of human rights to uphold social justice and equality, as this right tends to perpetuate social inequality.

The neoliberal reforms, including new legislation aimed at attracting foreign investments, led to a reconsideration of regulations that previously restricted foreigners from owning agricultural land in Georgia. Subsequently, the law was challenged in the constitutional court, with the appellant questioning its compatibility with the right to property (Constitutional Court Of Georgia, 2012). As a result, the constitutional court declared the norm unconstitutional. The government justified this change by highlighting the significance of attracting foreign investments and safeguarding private property rights. Foreign investors wasted no time in acquiring land in Georgia as soon as the new regulation was introduced in 2011-2012. Within just a few months, foreign landowners constituted about 0.7% of the country's agricultural land area (Bacchi, 2019). (this statistic may not offer a comprehensive view, as foreigners could obtain land through legal entities, making it challenging to measure it accurately.) Furthermore, the brisk pace of land purchases was likely driven by substantial foreign investments. It is intriguing how private property, neoliberalism, and human rights are interconnected in this case, evidenced by using a human rights approach. Both state and non-state actors justified the change to protect the right to private property. The primary opponents of these restrictions were human rights advocates (TI, 2014). Human rights advocates rarely addressed the potential human rights concerns arising from the potential exclusion of rural populations from the land, which is mostly the only source of income in rural areas. This leads us to a discussion about the intersection of private property and human rights within the context of the neoliberal agenda.

Some scholars argue that the nature of property rights often results in excluding others from enjoying this right. The distribution of property rights can lead to dispossession and exclusion from access by others (Sikor & Forsith, 2013). From this perspective, human rights law should, at the very least, impose some limitations on this right to ensure the accessibility of others. One might argue that the right to private property is essential and can contribute to ensuring access to adequate housing. However, it is important to acknowledge that this right does not always guarantee housing rights in every case. In fact, in the absence of regulations, it could potentially become a primary source of homelessness due to the risk of an inequitable distribution of property.

Housing has been challenged in recent years in Georgia. This issue primarily stems from the impacts of free-market policies and the absence of adequate regulations. Notably, the

Georgian government has not implemented substantial measures to address homelessness, as it remains absent from official statistics, and there is not even a legal definition for homelessness. Furthermore, the constitution does not provide legally enforceable guarantees for the right to housing. Its provision (Article 5) is declarative in nature and lacks legally binding force (Parliament of Georgia, 1995).

Georgia was distinguished by a high rate of housing, exceeding 90%. This widespread homeownership allowed banks to use property as collateral for loans. In the case of loans secured by real estate, the risk to the banks decreased, and, therefore, there was less need for a strict assessment of the borrower's solvency (Eradze, 2020). As a result, a 2013 survey revealed that 44% of households had borrowed money, primarily from various sources. Of this population, 70% had bank loans and 17% from family and friends (UNICEF, 2013, p. 149). With that, the trend of forced evictions has increased in recent years. Since 2010, the number of sold collateral (loan collateral) has also risen, with 25% comprising houses (Eradze, 2020).

These events were triggered by the deregulation of the financial sector. In 2008, the Georgian government amended the law governing the National Bank of Georgia, transferring its oversight responsibilities to another agency (Parliament of Georgia, 2008). The deregulation initiatives also introduced significant changes in the financial sector, with a clear focus on simplifying creditor-related procedures. Some notable alterations included the removal of the bankruptcy law for individuals, streamlining enforcement and eviction rules, and introducing the confiscation procedure. In 2008, the Georgian government restructured the enforcement system, granting enforcement powers to both public and private agencies. Additionally, the government introduced a new rule allowing police to carry out evictions without a court decision. This development raised concerns about its impact on the fairness of debt collection practices. The challenges arising from the deregulation of the financial sector were even acknowledged by the National Bank of Georgia in its annual report 2015 (National Bank of Georgia, 2015). This unregulated environment led to a wave in debt among the population. Due to the burden of excessive debts and the aforementioned deregulations, many Georgians now face the distressing prospect of losing their properties and homes.

Analysing the repercussions of private property in the context of deregulation reforms in Georgia exemplifies how private property can be one of the factors contributing to exclusion

from access to housing or land. Georgia's experience shows how neoliberal reforms lead the population to housing problems. The constitution and national legislation do not set solid guarantees for the right to adequate housing. In this regard, international human rights law is also ambiguous since it does not impose strict obligations to the states.

### ***5.3. How Have Tax Policy Reforms Reshaped the Socioeconomic Landscape in Georgia and What Are Their Implications for Human Rights?***

#### ***5.3.1. Tax Code***

In 2006, the Georgian government introduced a flat income tax to alleviate the tax burden and broaden the taxable base, which was implemented through a new Tax Code passed by the Georgian Parliament. This move marked the adoption of a regressive income tax system with reduced tax rates (Akitoby, 2018). The country's tax landscape reflects a straightforward system characterised by an income tax rate of 20% for all citizens, a profits tax rate of 15%, a modest 5% dividend tax, an 18% value-added tax (VAT), and a nominal 1% property tax (Parliament of Georgia, 2010). As a result, Georgia has earned its place among the top 10 countries with notably low taxes. As a result, the tax system, while attracting businesses, raises concerns about equal contribution to the state budget, social equality and the broader economic well-being of the population.

#### ***5.3.2. 'Article 94'<sup>3</sup>***

In 2010, an amendment to the Georgian Constitution made it impossible to increase tax rates by the legislative body. Article 94 of the Constitution states explicitly that the Parliament cannot introduce new taxes or raise existing ones; this authority is reserved for referendums initiated solely by the government (Parliament of Georgia, 1995). This amendment effectively makes any changes to tax rates or the tax system almost impossible. Despite recommendations from organisations like the IMF and the Venice Commission, the government chose not to remove this article from the new Constitution, which was enacted in March 2018 (Godar, Khundadze and Truger, 2018). However, it is important to note that, after campaigns and recommendations, policymakers eventually made provisions in the Constitution for this article to be automatically annulled by 2030 (Parliament of Georgia, 1995).

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<sup>3</sup> In the amended version of the constitution, this stipulation has been incorporated within Article 67.

### ***5.3.3. 'Liberty Act' - Georgian Neoliberal Manifesto***

Following the free-market reforms, the Georgian government introduced a constitutional amendment in 2010, mandating the adoption of an organic law on Economic Freedom in 2011, commonly known as the "Liberty Act" (Parliament of Georgia, 2011). This law provides assurances and a legal framework to ensure that the country will continue to pursue neoliberal policies and reforms over the long term. The purpose of this policy was to prevent any efforts to easily dismantle the established liberal economic policies. By adopting this law, the Georgian government provided a commitment to the business sector that both low taxes and the regressive tax system would endure for an extended period while the allocation of public funds to social issues would remain limited.

The first article of this law imposes significant constraints on taxation. It restricts any modifications to state taxes (except for excise taxes) and any increases in the tax rates, which can only be enacted through a referendum. Most notably, this law (Article 1) explicitly prohibits the transition to a progressive tax system, whether through a referendum or by the legislative body (Parliament of Georgia, 2011). This effectively leaves Georgia with no feasible path to adopting a progressive tax system. Removing this law is challenging in itself, as it is an organic law and requires a high level of political consensus.

Tax policy plays a pivotal role in the allocation of public funds and in shaping the support for state welfare systems. A progressive tax scheme, in which individuals with higher incomes are subject to higher tax rates, is often viewed as equitable since it fosters social equality through wealth redistribution. Prohibiting progressive taxes in Georgia has worsened the situation. By eliminating or limiting progressive taxes, the government promotes a regressive tax system that unfairly burdens individuals with lower incomes. This has increased income inequality and hindered the state's ability to fund and provide social welfare services effectively. In addition to an unfair tax system, low taxes have reduced the budget's funding possibilities. As Freeman suggests, the allocation of resources should be a subject of human rights concern (Freeman, 2017). A fair and progressive tax system can help to fulfil social and economic rights by distributing resources to benefit vulnerable members of society.

While the Liberty Act limits the allocation of funds in the budget by tax regulations, it also imposes limitations on public expenditures, which can affect the welfare system and potentially reduce its effectiveness. Article 2 of the Liberty Act outlines specific constraints,

including the restriction on the total growth of combined budget expenses and non-financial assets to 30% of the gross domestic product (Parliament of Georgia, 2011). This restriction on public spending also affects education, even though access to adequate education remains a challenge in Georgia. Despite economic development and an increase in the budget, education expenditures have been inconsistent and have not seen substantial growth. As a result, thousands of students are forced to drop out of universities due to the fact that they can not afford to pay tuition fees, and the lack of state-provided student accommodations further excludes students from rural and remote areas from pursuing their education (Publica, 2023).

The Liberty Act is the foundation of Georgia's neoliberal agenda. It is worth examining the language that was used when introducing a law that protects only corporations' and business elites' interests in Georgia. However, the narrative implied the promotion of human rights and democracy in the country. The preamble of "The Law on Economic Freedom" emphasises that by adopting this Law, citizens of Georgia ensure economic rights and freedom for current and future generations. In his address, while introducing the Liberty Act, the President of Georgia highlighted the significance of economic liberalisation as a step towards achieving freedom and democracy (Parliament of Georgia, 2011). The concept of freedom is often invoked to justify neoliberal free-market policies. This narrative was famously championed by Milton Friedman in his book 'Capitalism and Freedom,' where he argued that free-market capitalism is essential for achieving personal freedom (Ashford, 2010). However, the Georgian case illustrates a different reality, as social inequality and injustice hinder the achievement of freedom and the development of democracy in the country. Carl Polanyi's argument about freedom and free-market ideology is relevant here. As he contends, liberal economic policies provide freedom and advantages primarily to those who do not require additional income and security while leaving nothing for those in need (Polanyi, 2001).

#### ***5.4. Deregulations in Georgia and Their Impact on Human Rights***

##### ***5.4.1. New Labor Code, 2006: Impact and Implications***

Georgian policymakers significantly reshaped the labour market by adopting a new Labor Code in 2006 (Parliament of Georgia, 2006). The new law favoured businesses over workers, giving employers more power in hiring and firing with fewer responsibilities.

The Government abolished labour inspection in 2006 by adopting the new Labour Code (Article 55). Officials declared that the old inspection structure was corrupt and hindered

business activities. However, the consequences were stark. Following the elimination of labour inspection in 2006, there was a substantial increase in the average number of fatal workplace accidents, reaching 41.36, marking a 74.1% rise compared to the previous period (Tchanturidze, 2018). Neglecting the state's obligation to monitor the working environment places various human rights (including the right to life, a healthy environment, and labour rights) at risk. The statistics presented above serve as evidence of these potential threats. The new labour code was fundamentally grounded in the principle of contractual freedom and opened the door to employers' potential abuses of power. New law facilitated an environment where employers could exploit their authority. They could employ individuals without a written contract, evading contractual responsibilities and allowing employers to infringe upon labour rights more readily. New norms imposed several obligations on workers while granting employers significant freedom from responsibility (Parliament of Georgia, 2006).

The changes in labour legislation favoured businesses and weakened the state's involvement in regulating and overseeing the protection of labour rights. The diminishing role of states in ensuring the realisation of economic and social rights has been described by scholars as the neoliberal premise, which says that those who succeed in the economy should be the ones to lead and set the rules (George, 1999). Even though the Labor Code governs labour relationships between private non-state entities and individuals, the complexity of labour relationships necessitates a more significant level of intervention by the state to protect labour rights. The 2006 Labour Code, introduced as part of deregulation reforms aligned with business interests, led to a surge in workplace fatalities and put labour rights at risk. Neoliberal ideology, according to Harvey, often emphasises safeguarding multinational corporations and the interests of economic elites (2007).

#### ***5.4.2. The Absence of an Adequate Minimum Wage***

##### ***'Decree of the President of Georgia on the Amount of Minimum Wage'***

Georgia has one of the lowest minimum wage rates in the world at 20 GEL (equivalent to 7.55 USD) per month (President of Georgia, 1999). To provide clarity, I will compare the minimum wage to subsistence and living wages in Georgia. According to the official statistics, the subsistence minimum in Georgia is 253.90 GEL (equivalent to 95.48 USD), which is twelve times higher than the official minimum wage (National Statistics Office of Georgia, 2022). Moreover, the living wage in Georgia, which encompasses all essential needs (food, clothing, housing, education, healthcare, transportation) is estimated at 1,770 GEL



(equivalent to 670 USD) (Wage Indicator Foundation, 2022). The present minimum wage in the country amounts to just 1.3% of the living wage.

The absence of a minimum wage places employees' compensation at the mercy of their employers, resulting in practical exploitation. The lack of minimum wage has impacted mainly specific groups: nurses, retail workers, and those in the construction and mining sectors. In the Special Report, the Public Defender of Georgia highlights a significant disparity between the compensation and the workload in the healthcare sector (Ombudsman Office, 2021). Georgian nurses have endured unfair conditions for an extended period, exacerbated by the added strain of the COVID-19 outbreak. Their hourly wage stands at a mere 2.75 Georgian lari, equivalent to just one USD (Ombudsman Office, 2021). Compounding this situation, the owner of Georgia's most prominent clinics has an annual income from those clinics exceeding \$60 million (Transparency International, 2022). This starkly illustrates that the issue is not a lack of resources but a consequence of the policies and regulations that produce inequality. It is worth noting that major medical centres have been privatised since 2004, effectively transforming the healthcare sector into a profit-oriented business sector. The situation is even more alarming in other sectors. According to the survey, employees in the service industry earn between 120 and 362 GEL each month, ranging from 300 to 720 GEL for miners (Liberali, 2015). The absence of adequate minimum wage could be translated as the act of deregulation, which led the country to labour exploitation. Diminishing or excluding government interference in the private business sector puts human rights at risk, leading to social injustice and inequality (Block and Evans, 2018).

Unfair remuneration stands as one of the most prevalent labour rights violations in Georgia today. The minimum wage directly influences the realisation of human rights, such as the right to education, healthcare, and adequate housing. The Universal Declaration of Human Rights affirms that "everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection" (UN General Assembly, 1948). Furthermore, "fair remuneration" is guaranteed by the Covenant on Social, Economic, and Cultural Rights. Article 7 of this Covenant stresses the importance of providing all workers, at a minimum, with a decent standard of living for themselves and their families (UN General Assembly, 1966). The absence of adequate regulations concerning the minimum wage has

raised concerns, as highlighted in a report by the Commissioner for Human Rights of the Council of Europe. The report urges the Georgian authority to ratify and fully implement the Minimum Wage Fixing The International Labour Organization's Convention (N131) on Fixing Minimum Wage outlines that governments should consider the needs of workers and their families within the country, considering the overall wage levels, the cost of living, social security benefits, and the relative living standards of various social groups when calculating and setting the minimum wage.

# CHAPTER SIX

## 6. Social and Economic Rights Framework: Addressing Challenges Posed by Neoliberal Reforms

This chapter aims to assess the effectiveness of the social and economic rights framework in addressing the challenges posed by neoliberal reforms in Georgia. It attempts to analyse how the existing human rights framework can respond to the multifaceted challenges brought about by neoliberal political ideology and economic policies in the country. According to the findings, enforcing social rights through the judicial system poses significant theoretical and practical challenges. Even though the Constitutional Court is authorised to assess the constitutionality of legal acts, the court's approach to social rights appears to be inconsistent and excessively careful. I will focus on the specific problems that the court has identified, categorising them into the following topics: "available resources," "positive nature," enforceability, and jurisdiction of the court in the context of the separation of powers.

Social rights, often described as "expensive rights," the realisation of which, compared to political and civil rights, largely depends on the state budget. The Constitutional Court of Georgia, in the case "Georgia's citizen Tamar Tandashvili against the Government of Georgia," problematises the enforceability of social rights and emphasises the main difference between negative and positive rights from an enforceability perspective. The court says that while fundamental rights are self-enforceable in most cases, the realisation of social rights depends on state resources (Constitutional Court of Georgia, 2017). This interpretation underlines that social rights, in general, can only be fully realised with actual access to state funds.

In the *Darbiniani v. Parliament* case, the appellant contested a regulation that excluded non-citizens from accessing state support for their education. The court examined the regulation in terms of its conformity with antidiscrimination principles but as for the right to education, the court assessed the importance of primary education for the public interest and affirmed that the right to education is indeed a right, not merely a privilege and therefore acknowledged the government's obligation related to the right to education. However, the court interpreted that in some instances, financial considerations on the part of the state may

justify limitations on the right to education. According to the interpretation provided by the Constitutional Court of Georgia, the careful management of limited resources in a general context can be considered a significant public interest that justifies imposing limitations on certain rights (Constitutional Court of Georgia, 2017). This interpretation undermines the effectiveness of social rights, even when resources are available, as it allows the state considerable discretion in weighing proportionality against the right and the rational allocation of public funds. To mitigate the risk of manipulation by states, Freeman recommends incorporating human rights considerations into the budgeting process and, more broadly, into economic policy. Assessing budgets and investigating budget expenditures can serve as valuable tools for scrutinizing a government's actions.

In the case "Georgia's citizen Tamar Tandashvili against the Government of Georgia," the court reasoned that realising social rights is directly linked to the availability of state resources, as it needs the allocation and distribution of substantial funds. Which, as the court said, was beyond its jurisdiction (Constitutional Court of Georgia, 2009). It should be noted that the court did not intervene in the assessment of adequate resources, which highlights the limitation of this feature of human rights. The court implied that social rights, including social security and assistance, are policy matters rather than fundamental human rights. The wording and content of the court's reasoning indicate a hierarchy between "fundamental" rights and social provisions, which could suggest that social provisions are not as important as fundamental rights. The court noted that the main differences between the above two types of rights are expressed in the particularity of their enforcement. The court defined fundamental rights as self-enforceable, while the realisation of social rights directly depends on state resources, and for their implementation, it is necessary for the state to accumulate significant funds and distribute them to the relevant beneficiaries (Constitutional Court of Georgia, 2009). Due to the inherent reliance of social rights on available resources, the court has consistently maintained that assessing resource availability in the context of social rights is not within its jurisdiction.

In the case "The Public Defender v. the Parliament of Georgia", the court examined the constitutionality of the legal norm that denied individuals access to court remedies regarding the determination of citizens' social status for the purpose of receiving social assistance. Although the court unanimously declared the contested rule unconstitutional, judges did not achieve a consensus over judicial consideration of social assistance and social security rights.

The judges drew the lines between law and politics and said that - the court is limited to solving the law issue and not policies, which derives from the principle of separation of powers (Constitutional Court of Georgia, 2009). The contention that the enforcement of economic and social rights results in an unwarranted transfer of power from elected legislatures to the judiciary is not entirely precise. As per the dissenting opinion of the judges in this case, in the context of the separation of powers, the judiciary functions as a mechanism through which it can ascertain whether the actions carried out by other branches of government align with the legislation.

The principle of the separation of powers necessitates two key imperatives: first, the autonomy of governmental branches, and second, a clear illustration of their respective functions. The judiciary does not have the power to replace the legislative or executive branches to make decisions in their areas. The judiciary lacks the authority to determine the economic or social policies of the state. Instead, its mandate is limited to the assessment of the constitutionality and legality of decisions made by political authorities. The role of the judiciary centres on the validation and determination of potential violations of the Constitution and the law as the basis for its actions, which could imply the evaluation of available resources or the state's policy. The stance taken by the court aligns to some extent with Freeman's recommendations regarding the combination of political and legal strategies as the most effective approach towards realizing social rights (Freeman, 2017).

Addressing the challenges that hinder the efficacy of social rights might find a potential solution in reclassifying these rights as negative rights. As Freeman suggests, civil and political rights encompass both negative and positive aspects, akin to economic and social rights. From this standpoint, social rights, like the right to education, could be interpreted as possessing a positive dimension in which the state actively ensures their realization and a negative dimension in which the state has an obligation not to hinder the fulfilment of these rights, which could apply to policy-making process as well.

# CHAPTER SEVEN

## 7. CONCLUSION

The primary objectives of this study were to identify the main characteristics of the socio-economic reforms and the challenges that the neoliberal agenda has posed to human rights in Georgia. Regarding the first research question, a comprehensive analysis of theories and findings unveiled numerous challenges associated with neoliberalism. The study's findings indicate that, despite the economic growth, The Government's goal to eradicate poverty has remained elusive because of the inequitable distribution of wealth that led to social inequality, which posed several challenges to human rights. As this paper examined, social inequality followed by poverty significantly puts human rights at risk.

Regarding social inequality, in the case of Georgia, two primary reasons have emerged as the leading causes: the tax policy and the absence of a minimum wage. Primarily, the tax policy introduced under the neoliberal agenda emerges as a pivotal factor in fostering social inequality. Georgian policymakers introduced legislative changes that implemented a new tax policy with a regressive flat income tax. This tax policy undermines the fundamental principle of equitable contributions to the public budget. Furthermore, tax reductions obscure the allocation of resources and undermine state welfare. The allocation of resources is a cornerstone for the state to fulfil its obligations concerning social rights (Freeman, 2017).

Moreover, the lack of an adequate minimum wage is a significant factor contributing to social inequality, injustice, and poverty. The absence of an adequate minimum wage in Georgia is a critical issue with far-reaching implications for the socioeconomic landscape. The findings demonstrate that employers have taken advantage of their strong position in the job market and pay workers too little, often less than what is needed for a basic living in Georgia.

Privatising crucial services like water, healthcare, and natural resources is another facet of neoliberal reforms that has presented challenges to human rights. Privatisation in Georgia has led to the exclusion of people from essential services and resources. Two significant concerns have arisen regarding privatisation in Georgia. First and foremost, the research revealed that the policy implemented through the legal acts fails to adequately address the risks associated

with privatisation. Through the legislative changes, the government has gained the authority to privatise strategically significant assets and services. Unfortunately, these legal provisions lack regulations pertaining to human rights and environmental protection. Consequently, services or companies delegated to private owners have become hotspots for labour exploitation and human rights violations, often posing environmental threats.

The findings of this paper highlight the dynamics surrounding private property in Georgia, particularly in the context of deregulation. Through the lens of critical theory, the study reveals that private property has turned into a source of labour exploitation and a means of exercising control over the state. Simultaneously, in Georgia's case, it becomes evident that the right to private property does not necessarily guarantee access to housing. Instead, it has, in some way, turned into a threat to housing security, which has resulted from the deregulation of the financial industry and the flourishing of private property.

The results reveal that even with the introduction of legislative changes, the labour code still needs to meet the requirements of labour rights. Notably, the issue of overtime remuneration still needs to be solved. However, it is worth noting that a new law implemented in 2018 has led to improvements in areas related to safe working conditions and protections for employees against unfair dismissal.

In terms of the effectiveness of human rights in addressing these threats, it is clear that human rights frameworks and mechanisms have limitations in countering the negative impacts of neoliberalism. As the study showed, constitutional courts or other judicial bodies tend to view the allocation of resources as a political matter and decline to examine cases related to social rights. This can limit the ability to seek legal remedies for enforcing social rights through legal avenues. The availability of resources is ambiguous and can be manipulated by states to avoid their obligations in realising social rights. The lack of clarity in defining what constitutes "available resources" can create challenges in holding states accountable for fulfilling social rights. Some of the social rights enshrined in the Constitution of Georgia are not legally binding. This further weakens the enforceability and effectiveness of these rights, as there is no legal mechanism to ensure their realisation. Without legally binding provisions, holding the state accountable for its obligations to protect and promote social rights becomes more challenging.

In conclusion, this study highlights that the reforms, which prioritise market forces and limited state intervention, have had detrimental effects on human rights in Georgia. From a legal perspective, the effectiveness of human rights in addressing the challenges posed by neoliberalism in Georgia has been limited mostly because of the positive nature.

### **7.1. Recommendations:**

Based on the findings and conclusions of the study, it is advisable for the Parliament of Georgia to adopt and implement the following legislative changes:

- **Adequate Minimum Wage:** The Parliament of Georgia should establish a minimum wage that corresponds to the living wage. This will guarantee equitable remuneration for workers and enhance their quality of life.
- **Tax Policy:** It is advisable to institute substantial modifications to the tax system, moving towards the adoption of a progressive tax framework to guarantee a fairer distribution of tax responsibilities;
- **Privatisation:** It is advisable to tackle human rights issues arising from privatization by implementing regulatory measures that establish accountability for private enterprises involved in the management or acquisition of public assets. These regulations should be particularly stringent when private companies are responsible for delivering critical services like water and healthcare;
- **Private Property:** Proposing a regulatory framework for property rights is a prudent step to counteract the unequal distribution of wealth and resources, particularly encompassing housing and natural resources, which have a direct impact on human rights.
- **A Rights-Based Approach (RBA) in the budgetary procedure:** As a recommended course of action, it is advisable to integrate a Rights-Based Approach (RBA) into the budget planning and budget oversight processes. The annual budget should include a clear rationale and justification for the allocation and utilisation of public funds. This approach aims to minimise uncertainties concerning the available resources.

By implementing these recommendations, the Georgian government can take steps towards a more equitable and rights-centered approach to economic and social policy.



Furthermore, as discussed in this paper, framing social rights as negative rights could reduce the challenges that economic policies pose. This approach emphasises that social rights as negative rights impose limitations on the state, preventing it from making decisions or implementing policies that potentially undermine social rights. By using a rights-based approach in economic policy and budget planning, governments can prioritise the protection and promotion of social rights. Nonetheless, a comprehensive and in-depth analysis must be conducted to scrutinise potential risks and evaluate the impacts associated with this approach.

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