

Draft guiding principles

“Extreme poverty and human rights: the rights of the poor”^a

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the other human rights instruments adopted by the United Nations,

Considering the relevant provisions of the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights on 25 June 1993, and of the Copenhagen Declaration on Social Development and Programme of Action of the World Summit for Social Development, adopted by the World Summit on 12 March 1995, resolution 46/121 adopted by the General Assembly on 17 December 1991 and the Assembly’s subsequent resolutions on the issue, the Millennium Declaration, adopted by the General Assembly on 8 September 2000, and the development objectives set out in the Declaration, whereby States solemnly undertook to do their utmost to eliminate poverty,

Also considering the 2005 World Summit Outcome, in which heads of State stressed “the right of people to live in freedom and dignity, free from poverty and despair”, and recognized that “all individuals, in particular vulnerable people, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential”,

Recalling that, in its resolution 54/232 of 22 December 1999 and several subsequent resolutions on the matter, the General Assembly expressed its deep concern that women and children for the most part constitute the group most affected by the phenomenon of extreme poverty, and that, in its resolution 59/186 of 20 December 2004, the Assembly expressed deep concern that extreme poverty persists in all countries of the world, regardless of their economic, social and cultural situation,

Also recalling that, since adopting its resolution 47/134 on 18 December 1992, the General Assembly has repeatedly reaffirmed that extreme poverty and exclusion from society constitute a violation of human dignity, and stressed the need for a complete and in-depth study of the phenomenon of extreme poverty, based on the experience and ideas of the poorest sectors of the population, a task that has been accomplished, in particular, by the Sub-Commission’s ad hoc group of experts,

Considering that those living in poverty, and particularly in extreme poverty, are the first to act to change their situation and that of their families, and that their efforts should be identified and supported as a matter of priority,

Recognizing that, as the General Assembly has emphasized, the eradication of extreme poverty constitutes a major challenge in the process of globalization, which can be met only by means of a coordinated policy stemming from continuous international cooperation and decisive action at the national level,

Reaffirming, after the General Assembly, that widespread absolute poverty inhibits the full and effective enjoyment of human rights and renders democracy and popular participation fragile,

Considering that the inherent dignity of all the members of the human family and their equal and inalienable rights demand that priority attention should be given to those suffering most from poverty and exclusion,

^a The terms “poor” and “poverty” as used in this draft refer to the situation of persons living in extreme poverty.

Reaffirming that extreme poverty persists throughout the world, that it constitutes a negation of human rights and might, in some situations, threaten the right to life, and that the international community must continue to regard its immediate alleviation and eventual elimination as a major priority,

Taking into account the relevant decisions and resolutions of the Commission on Human Rights, which has repeatedly condemned the situation of poverty in the world and emphasized that it represents a negation of the fundamental rights of the individual, as well as the declaration on poverty and the International Covenant on Economic, Social and Cultural Rights adopted by the Committee on Economic, Social and Cultural Rights on 4 May 2001, and recalling that, in that context, the Commission, in its resolution 2001/31 of 23 April 2001 and its other resolutions on the matter, requested the Sub-Commission, with the help of an ad hoc group of experts, to draw up guiding principles on the implementation of human rights norms and standards in the context of the fight against extreme poverty,

Adopts the following guiding principles, which it submits to the Human Rights Council for consideration, expressing the hope that all the interested parties will engage in an in-depth discussion with a view to their adoption.

Human rights and extreme poverty: the rights of the poor

1. Poverty is a human condition characterized by sustained or chronic deprivation of resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights^b.
2. Extreme poverty and exclusion from society constitute a violation of human dignity; consequently, the inclusion in national and international plans of measures to eliminate them is a priority.
3. Persons living in extreme poverty are fully entitled to demand that policies and programmes at the national and international level aimed at the eradication of extreme poverty should be drawn up and effectively implemented in accordance with the principles of human rights and the present guiding principles.
4. Persons living in extreme poverty are entitled to the full enjoyment of all human rights, including the right to participate in the adoption of decisions which concern them, and to contribute to the well-being of their families, their communities and humankind.
5. States, as well as all the organs of society at the local, national, regional and international level, have an obligation to take effective action to eliminate extreme poverty; to that end they must act in a structured and accountable manner, in partnership with persons living in extreme poverty, and must periodically report on their actions at all levels, especially the local and national levels, in accordance with applicable legal norms. At the international level, States must account for their actions in the periodic reports they submit to the bodies monitoring compliance with treaties, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.
6. States, intergovernmental organizations, national and transnational enterprises and non-governmental organizations, inter alia, have a responsibility to take into account and fully respect human rights, in particular the principles set out in the present document. Infringements of these rights by the above-mentioned entities, whether arising from negligence or from a deliberate decision, should be regarded as violations of human rights and their perpetrators should be held responsible, with the corresponding legal consequences.

^b Declaration by the Committee on Economic, Social and Cultural Rights on poverty and the International Covenant on Economic, Social and Cultural Rights (*Official Records of the Economic and Social Council, 2002, Supplement No. 2 [E/2002/22-E/C.12/2001/17], annex VII*), para. 8.

Section 1

A. Participation by the poor

7. Persons living in extreme poverty have the right to participate in all activities which concern them, particularly programmes for the eradication of extreme poverty. The implementation of such policies and programmes without the participation of the persons concerned and their associations and organizations constitutes a violation of the right to participate in public affairs.
8. States should foster and promote participation by the poorest people in the decision-making process in the societies in which they live, in the promotion of human rights and in efforts to combat extreme poverty. They should also empower people living in poverty and vulnerable groups to organize themselves and to participate in all aspects of political, economic and social life, in particular the planning and implementation of policies that affect them, thus enabling them to become genuine partners in development^c.
9. States should take action in every sphere to combat the feminization of poverty and ensure the participation of women in all their anti-poverty programmes. Every programme or piece of legislation aimed at eliminating extreme poverty should seek to take into account the different situations of women and men and to rectify inequalities between girls and boys and between women and men with regard to the use of resources, access to rights, the exercise of responsibilities and support for family life.
10. Programmes to combat poverty should be publicly available, and should set specific targets and specify indicators to facilitate evaluation of their implementation as well as mechanisms for monitoring and accountability. The State and public and private agencies which implement poverty reduction and eradication policies and programmes should encourage the establishment of forums for evaluation and monitoring in which persons living in extreme poverty participate.

B. Discrimination and stigmatization

11. Discrimination affecting persons living in extreme poverty must be punished as a violation of human rights. The stigmatization of the poor and their associations, groups, neighbourhoods or places of residence, and their representation as persons without rights who are dangerous, violent and display other negative characteristics, must be regarded as forms of discrimination. Discrimination against the poor based on their image, their dress, their physical appearance or any other grounds related to their situation of extreme poverty constitutes a human rights violation. The State, international agencies and other parties concerned have an obligation to criticize and combat stigmatization of the poor and to promote a balanced and fair image of persons who are in a situation of extreme poverty.
12. The media and education systems play a key role in the processes of discrimination and stigmatization, and hence in efforts to combat those phenomena.
13. Public officials, those of international organizations, personnel in humanitarian organizations and all those working for the elimination of poverty are expected to maintain relations of respect for the dignity and the fundamental rights of persons living in extreme poverty, particularly in human relations, in humanitarian services and in project formulation and implementation. The personnel of social welfare schemes have these obligations, and the right to freedom from discrimination based on the circumstance of poverty is a right which must be guaranteed to the poor.

Section 2

C. Indivisibility and interdependence of rights

^c General Assembly resolution 55/106, dated 14 March 2001.

14. All persons living in extreme poverty have the right to the enjoyment of all human rights, which are indivisible, interdependent and universal. The exercise of human rights is crucial to the elimination of extreme poverty, because the denial of one right has an adverse impact on the totality of the rights of the individual. However, the restoration of a right in isolation is not enough to ensure that individuals, their families and their communities will emerge from the situation of extreme poverty^d.

D. Civil and political rights

15. All persons living in extreme poverty have the right to be recognized everywhere as persons before the law. They have the right to participate fully in the life of the community in which they live, to have a domicile, to possess an identity document or any other document which constitutes evidence of their citizenship or their legal status, and to enjoy all the civil and political rights set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. They should enjoy full citizenship of the State of which they are nationals and have the right to participate without discrimination in the political life of that State and to take part in public affairs. Any denial of civil and political rights to the poor on the basis of their circumstances of extreme poverty, whether individual or collective, must be regarded as a case of serious discrimination.

16. Persons living in extreme poverty have the right to form a family, to support their children, to take care of them, to raise them, and to enjoy the fundamental dignity inherent in every human being, guaranteeing respect for privacy and family life.

17. Governments in particular have a duty to put an end to violence inflicted by State and non-State actors on persons living in extreme poverty, particularly women and children, and to provide adequate police protection. The State must draw up education programmes for the population in general, and the police forces in particular, in order to promote non-discrimination against persons living in poverty. Persons living in extreme poverty must enjoy the same rights as other persons and have access to justice free of discrimination. Any person responsible for an act of violence and discrimination against persons living in conditions of poverty must be brought to justice and punished.

18. The State must in particular ensure the protection of vulnerable population groups, including the homeless, street children, the disabled and the elderly, who are worst affected by extreme poverty. The State has an obligation to implement effective programmes for these particularly vulnerable groups.

19. States will adopt special measures to provide protection to the poor in respect of their dignity, their privacy, their integrity, their honour and their reputation. This protection must be effective and provided free of charge on an equal footing with other subjects of law.

E. Right to food

20. Every human being has a right to adequate, appropriate, healthy food, and is entitled not to be exposed to the risk of hunger or starvation. The State and the international community are duty-bound to accord all human beings, individually or collectively, the right of physical and economic access to appropriate food.

21. Poor rural inhabitants are entitled, in order to feed themselves, to acquire effective ownership of their land and register that ownership in good and due form. States and the international community are duty-bound to uphold peasants' rights to the ownership of their land and to encourage agrarian reforms that will afford access to additional land and will protect and demarcate the lands belonging to indigenous population groups and the lands and territory belonging to minorities descended from slaves and protect fish resources and small-scale fishing communities' fishing grounds, nomadic herders' grazing rights, and the hunting rights of those who live by hunting.

^d See E/CN.4/Sub.2/1993, para. 178.

22. In the event of hunger or famine and where welfare assistance is provided in the form of food, distributions of food or similar measures, peoples' dignity must be fully respected, organized arrangements being made for distribution that encourage active participation by the population groups concerned.

23. Corruption, food smuggling, theft of international humanitarian aid, wilful adulteration of food intended for the general public, distribution of perished foodstuffs and all other similar misconduct must be regarded as criminal behaviour of the gravest order - as a violation of poor peoples' and others' human rights in particular - and made subject to exemplary punishment.

F. Right to health

24. Persons living in extreme poverty have a right to health, and the State must guarantee the appropriate exercise of that right.

25. All persons living in hardship have a right to be treated with dignity, respect and humanity by health-care systems. Health-care personnel must be acquainted with the day-to-day circumstances of highly underprivileged individuals and families and trained in forging partnerships with such people.

26. Poor people living in areas of extreme poverty where pandemics, epidemics and widespread illnesses such as HIV/AIDS, malaria, tuberculosis, leprosy or typhus occur have a right to health and to active involvement in the design and execution of eradication programmes. The State is under an obligation to uphold the right to health of the entire population, including those living in extreme poverty. Where situations overwhelm its capacity to respond, the State is under an obligation to seek assistance from the international community, and the international community must grant such assistance immediately.

27. The right to health is closely linked to the right to life. Those responsible, nationally and internationally, for any negligence in the execution of preventive or health-care programmes, or for any ill-informed, inappropriate or ill-intentioned planning that results in human deaths, must be put on trial and punished.

28. Theft, corruption, trafficking, black-marketeering and any other criminal activity involving vaccines, medical supplies, surgical or other equipment originally intended as medical aid must be severely punished and, depending on the scale of the activity, regarded as a crime of the utmost seriousness subject to prosecution and trial before the competent courts. Victims or their legal heirs and successors are entitled to reparation.

G. Right to drinkable water

29. Persons living in extreme poverty have a right to drinkable water, and the State is duty-bound to provide this service to them free of charge. In areas of widespread rural poverty, the State must provide drinkable water whenever climatic conditions culminate in drought. If the State cannot do so by itself, it is under an obligation to seek the assistance of the international community, and the international community is obliged to provide such assistance.

30. The right to drinkable water is directly linked to the right to life. Negligence, omission or planning that result in an absence of water distribution services must be regarded as action threatening human life. Likewise, the destruction of the means of supplying water, the sale of water rights and privatization or management of water resources that result in a lack of access to drinkable water for groups of the population must be regarded as an encroachment upon this right.

H. Right to housing

31. Persons living in extreme poverty have the right to dignified housing affording suitable protection from the climate, enabling them to have a family life and to develop as individuals in dignity and decency.

32. All who live in extreme poverty have the right to private, individual, cooperative or collective ownership of their housing, furniture and utensils of every kind; in rural areas they have the right to collective or individual ownership of their land, housing, tools, animals and other daily necessities. The State is under an obligation to guarantee the poor access to housing in a manner that will spur improvements in their living conditions.

33. As part of their poverty eradication policies, States should place especial emphasis on housing policy and encourage the active involvement of those living in extreme poverty in the design, execution, management, administration and evaluation of housing policy. States should be especially attentive to the quality and suitability of any public housing that is built. Corruption, poor management of building materials and negligence must be severely punished by the judicial system and regarded as a kind of discrimination and a breach of the human rights of the poor.

I. Right to education and culture

34. All who live in extreme poverty have a right to education. They and their children are entitled to have access to basic education and schooling at all the levels offered by the education system, without being exposed to segregation or discrimination of any kind. The State should most particularly ensure that children living in extreme poverty have access to education.

35. All who live in extreme poverty have a right of access to culture and the arts. Special programmes affording access to culture, instruction, reading, art and literature and resource-management and administration programmes should be set up in collaboration with, and with the active involvement of, the poor and their families as means of eradicating hardship. Cultural and instructive programmes, whether designed and executed by the State or by private entities, should seek to uphold the dignity of the poor, promote awareness of their rights, and accord due recognition to their experience.

J. Right to work

36. All who live in extreme poverty have a right to decent, dignified, productive, safe and appropriately remunerated employment. State policy should guarantee their right to employment, to labour rights, to appropriate welfare provision and to security systems enabling them to cope with unemployment and crises. Poverty-alleviation policies must take account of the right to work as a factor militating against extreme poverty.

37. On the matter of access to employment, the State and society must strive to abolish any form of discrimination based on external impressions, physical appearance, residence, living conditions, race, ethnic background, sex or any other consideration stemming from extreme poverty. Discrimination in employment on grounds relating to extreme poverty which are unrelated to good performance on the job should be duly penalized.

38. The State should ensure that there are fair labour codes so that wage earners, both permanent and, especially, temporary, and their families do not have to live in poverty despite going to work. The State must eradicate child labour, prostitution, forced labour, contemporary forms of slavery and other activities in which those living in extreme poverty are often constrained to engage.

K. Right to justice

39. All who live in extreme poverty have the same right of access to justice as other citizens. The State and the judicial system must take care to uphold equality before the law and ensure the administration of justice without discriminating on grounds of physical appearance, residence or any other consideration stemming from extreme poverty.

40. The State and judicial administration must provide free, high-quality legal assistance for the protection of people living in extreme poverty. Judges must explain charges and proceedings in a clear, comprehensible manner and, when dealing with individuals who do not speak the language officially used in a particular court, must call in specialist translators and interpreters free of charge.

41. The State should set up educational and public-information programmes to help the poor learn about their rights and the legal and judicial proceedings which they are entitled to bring. The State and judiciary should also set up training programmes for judges, defence counsel and judiciary officials with a view to ensuring that the justice system works for the poor.

Section 3

L. State obligations and international cooperation

42. Since human rights are universal, concerted action by the international community is required to give effect to them. International cooperation is, for States, developed countries in particular, a duty to which they must devote a significant proportion of their resources.

43. International cooperation over basic human rights must be developed with a view to the full realization of those rights. States and the international community are under an obligation to act immediately to end situations of widespread poverty, starvation and hardship. In the case of long-standing situations of dire poverty and situations resulting from natural disasters, armed conflict, etc. which require States to make appropriate resources available at short notice it is not just the State that must take immediate action: the international community must also set up ad hoc programmes. International bodies at the highest level must decide upon preventive measures, provide assistance and set medium- and long-term development objectives for dealing with such situations together and effectively.

44. International cooperation must be combined with appropriate action in international trade, market and investment promotion, weapons dealing and labour-market regulation to ensure that such cooperation yields results and does not accentuate the cycle of extreme poverty. Cancellation of foreign debt, reduced rates of interest and similar measures should be part of States' international cooperation policies and obligations.

M. Duties and responsibilities of public and private entities in combating poverty

45. Public and private bodies working to reduce extreme poverty (whether in industrialized or in developing countries), provide humanitarian aid or conduct international cooperation or development, educational or other plans and programmes are duty-bound to make their programmes public, disclose their working methods and objectives as well as their funding, and account for their activities. Their duties and responsibilities must be consistent with the international human rights system and these guidelines.

46. The staff of public and private international organizations, non-governmental organizations and movements and organizations working to eradicate poverty does and must display a high level of professionalism and moral rectitude in their conduct, and must base their action on the principles of international human rights law and these guidelines. The duties and responsibilities of such staff, whatever their status and including those volunteering their services, must be subject to independent supervision and public scrutiny. Given the humanitarian nature of such organizations' activities (their staff often work without pay), and in order to display greater solidarity with the poor and their living conditions, the organizations should be held strictly to ethical standards of conduct and any breach of those standards should be duly punished.

47. The international community must accord due recognition to, back and finance voluntary work in support of the poor, especially efforts to combat poverty and establish, nationally, regionally and internationally, a climate of solidarity; it must encourage poor people's organizations and social movements seeking to eradicate poverty with a view to the attainment of human rights.

48. States and the international community should celebrate on 17 October the International Day for the Eradication of Poverty proclaimed by the General Assembly in resolution 47/196 of 22 December 1992, which affords an opportunity to give due recognition and lend weight to this campaign.

21st meeting

24 August 2006

[Adopted without a vote. See Chap. VI.]