

Office of the United Nations High Commissioner for
Human Rights



**Seminar on the Draft Guiding Principles on ‘Extreme
Poverty and Human Rights: the Rights of the Poor’**

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Draft Guiding Principles on 'Extreme Poverty and Human Rights: the Rights of the Poor'

Background paper on views and comments of States and other relevant stakeholders

EXECUTIVE SUMMARY

In 2001, the Commission on Human Rights stressed the need to develop guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty. In response, the Sub-Commission on the Promotion and Protection of Human Rights entrusted an ad hoc group of experts with the task of preparing Draft Guiding Principles on extreme poverty and human rights (DGPs), which were submitted to the Human Rights Council (HRC) at its second session in 2007. As called for in HRC resolution 2/2, the UN Office of the High Commissioner for Human Rights (OHCHR) circulated the DGPs to obtain the views of States, relevant United Nations agencies, intergovernmental organisations, United Nations treaty bodies and special procedures mandate-holders including the independent expert on the question of human rights and extreme poverty, national human rights institutions, non-governmental organisations, especially those in which people in situations of extreme poverty express their views, and other relevant stakeholders. In order to obtain comments from civil society and people living in poverty and extreme poverty, two parallel consultations were undertaken, one by the United Nations Non-Governmental Liaison Service (UN-NGLS), and the other by the International Movement ATD Fourth World. A report of the findings was submitted by the OHCHR to the HRC at its seventh session. This process was considered to be the first round of consultations as requested in HRC resolution 2/2.

In implementing HRC resolution 7/27, a second round of consultations provided an opportunity to seek further the views of all relevant stakeholders on the DGPs and on the report of the first round. In this context, a consultation among a group of 11 NGOs in Geneva was convened, and a consultation with people living in extreme poverty was organised by the Bahá'í International Community. Respondents were invited to consider the following two questions: (1) *the added value and practical utility of the DGPs in helping to implement existing human rights norms and standards in the context of the fight against extreme poverty and;* (2) *the technical legal merit of the DGPs from the perspective of existing human rights norms and standards.* All the inputs gathered as well as the report of the Seminar on the DGPs (27-28 January 2009) will provide the material for the OHCHR's report to be submitted to the HRC before its last session of 2009.

The purpose of this background paper is to inform discussions at the 27-28 January 2009 Seminar on Draft Guiding Principles on Extreme Poverty and Human Rights. This paper draws from and summarises the submissions by States, relevant United Nations Agencies, intergovernmental organisations, United Nations Treaty Bodies, the independent expert on the question of human rights and extreme poverty, national human rights institutions, non-governmental organisations, especially those in which people in situations of extreme

poverty express their views, and other relevant stakeholders collected during the two rounds of consultation from 2007-8. The OHCHR has commissioned the preparation of this background paper to a consultant, Dr. Margot Salomon, London School of Economics and Political Science. The paper does not necessarily reflect the views of the OHCHR, the United Nations or the consultant.

All points included in this report are derived from the consultation processes. While every effort was made to reflect the full range of views from all respondents, it was felt that proposed amendments to the language in particular paragraphs would, in many cases, be better addressed in any subsequent revision of the DGPs. The paper does not purport to be exhaustive, and should not be taken as diminishing the relevance or precluding the consideration of views and submissions not reflected therein.

The consultation processes have disclosed unanimity among respondents on the importance of preparing guiding principles on extreme poverty and human rights. A widely held view among respondents is that guiding principles have the potential to strengthen the implementation of existing international human rights law, rendering international human rights law and policy directly relevant to people living in extreme poverty. For this to be realised however, the current DGPs would require work in a number of areas. Significantly, their language and terms would need to conform with international human rights law and their content would need to reflect far more carefully and comprehensively the range of marginalised groups affected by extreme poverty, and a focus on rights, issues and actors necessarily part of any effort to confront extreme poverty today.

An area requiring further discussion is the level of detail guiding principles should have and whether they would move beyond serving a normative function to provide operational guidance to States and others. The general view among respondents on this issue is that a balance could be struck between these two largely complementary objectives, with some respondents suggesting that to limit guiding principles to a visionary rather than somewhat more technical document would be to undermine their potential in advancing the human rights of people living in extreme poverty.

While there was no consensus on whether the DGPs should apply only to people living in *extreme* poverty, the majority of respondents seemed to have favoured this delineation, with the possible need to provide a definition, and the specific content of that definition, a matter still to be clarified. Although there are a number of views and preferences to be reconciled, the collective input derived from the consultations and brought together in this background paper reveals a widespread commitment to advancing this project. The various suggestions and insights offer a rich basis upon which to determine how precisely that might be done.

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1. GENERAL VIEWS AND COMMENTS ON THE CURRENT DGPS

Added value and practical utility

1. The draft Guiding Principles are widely viewed as having the potential to advance the objectives of international human rights law. As noted by the **Independent Expert on the question of human rights and extreme poverty**, they are particularly relevant because there is no single document in the human rights law corpus that addresses specifically the rights or needs of persons living in extreme poverty. **Zdzislaw Kedzia**, newly appointed Member of the Committee on Economic, Social and Cultural Rights, echoed the view of several respondents however when he recommended that the document's nature be clarified before discussing its added value.¹ The document could either be **guidelines** on the human rights of the poor and their guarantees by bringing together relevant human rights standards and applying them contextually, or guidelines on the elaboration of an **operational** framework for poverty eradication, **or both**. He concluded that it seemed difficult at the moment to speak of a convincing added value of the current DGPs before their scope and content were determined by a well-defined purpose. For its part, the **United Nations Development Programme** (UNDP) remarked that as a point of departure it would be important that the Guiding Principles clearly indicate their intended audience(s) and purpose(s). In sum, there is consensus among respondents of the political value of Guiding Principles on Extreme Poverty and Human Rights, with the possibility of having Guiding Principles go beyond the development of an interpretative tool to offer greater operational or technical significance also highlighted.

2. The above concern notwithstanding, all respondents - governments, NGOs and other stakeholders - **expressed support for the development of Guiding Principles** in this area and indicated that, in general, they represent an appropriate framework for shaping measures and activities in order to address extreme poverty across the world. The DGPs are viewed as an important step in the process of incorporating extreme poverty into the international system of human rights.

3. **The Representative of the Secretary General on the human rights of internally displaced persons** remarked that the DGPs have an added value to the extent that they **do not just restate existing guarantees** but spell out specific aspects of rights that are particularly important for persons living in extreme poverty and address obstacles that, in practice, limit the enjoyment of human rights. But he concludes that, despite their potential, this is often not done. To these ends, it was suggested by the **Centre on Housing Rights and Evictions** (COHRE) that a real added value would come from setting out, either in the text of the Guiding Principles or in an appended set of **Explanatory Notes**, the particular obstacles persons and communities living in extreme poverty face, so that States might be provided with direction on eliminating these obstacles. Other suggested technical improvements point to the inclusion in each section of a more detailed analysis of the measures that States should apply for each of the principles and rights included in the DGPs

¹ UNDP, Wouter Vandenhoele

in order for them to be applicable to persons living in extreme poverty, as well as the obstacles that States are likely to confront.

4. **Dr. Arne Tostensen**, Chr. Michelson Institute and **Professor Wouter Vandenhole**, University of Antwerp both highlighted that an added value of Guiding Principles would come from pointing out where international human rights law and policy fall short in addressing extreme poverty. The latter respondent remarking that there is a clear need for translating existing human rights standards so that they apply to specific target groups, in particular those living in extreme poverty, all the more so given the lived experiences of poor people that human rights are failing them all too often. In order to best achieve this objective he suggested that a clear analytical account of **how and when human rights are deficient** in addressing extreme poverty should be provided for in the Guiding Principles. This could allow for a more focused and operationally relevant document.

5. Applying a **human rights analysis to extreme poverty** may also help right-holders understand and claim their rights and help duty-bearers to perform their obligations within a system of greater accountability to people living in extreme poverty. Their adoption may not only provide international as well as local actors with a useful tool to guide them in the fight against poverty, but may also raise awareness among persons living in extreme poverty and the population at large as to their rights and entitlements. The Government of **Argentina** expressed its support for the human rights based approach to the eradication of extreme poverty, emphasising that “basic rights” are a matter of justice not charity. The consensus reflected in the **2008 joint submission of 11 NGOs** was to commend the human rights approach to poverty reduction adopted in the DGPs, in particular, the way in which they address the process of poverty eradication, and not merely the outcome.²

6. **Wouter Vandenhole** expressed the view that the DGPs as currently framed, address the important issues of extreme poverty as a lived experience of individuals or groups and the **structural phenomenon** of extreme poverty in a global context quite indiscriminately (and in the latter case only partially). Given the central importance of both these elements to understanding and addressing extreme poverty, an analytical distinction should be made between extreme poverty as an individual or collective *lived experience* on the one hand, and as a *structural phenomenon* of the global political economy on the other hand, and the latter should be dealt with more comprehensively. The view that the structural elements contributing to extreme poverty have not been adequately addressed in the DGPs is highlighted also by **Arne Tostensen** and **Professor Camilo Pérez Bustillo**, Universidad Autónoma de la Ciudad de México. The **International Movement ATD Fourth World** however, raised concern that a focus on this dimension would render

² Bahá'í International Community; Caritas Internationalis; CIVICUS; Franciscans International; International Catholic Child Bureau; International Council of Women; International Federation of Social Workers; International Movement ATD Fourth World; Lutheran World Federation; Pax Romana; World Organisation against Torture. Hereinafter to be referred to as the **2008 NGO Consultation**.

Guiding Principles less directly operational, although they support the maintenance of sections on international cooperation as well as on non-state actors. As noted by a number of respondents, the Guiding Principles have an important contribution to make in addressing the human rights responsibilities of companies and international organisations as applied in the context of extreme poverty.

7. **Joseph K. Ingram**, the former World Bank Special Representative to the UN and the WTO and Expert Member of the Task Force on the Right to Development remarked that the Guiding Principles could be helpful in drawing the attention of donor institutions to the fact that a number of specific economic and social services are also human rights, embodied in treaties which States have signed and/or ratified. There is a perception that many donors and their operational staff tend to equate human rights with only civil and political rights, neglecting to reflect on how they might exploit the obligatory nature of economic and social rights (a characteristic which conventional development tools don't possess) in the fight against extreme poverty.

8. It was remarked upon by a number of respondents, including the **Independent Expert on human rights and extreme poverty**, that the development of Guiding Principles in this area is extremely **timely**. As pointed out by the former **World Bank Special Representative** to the UN and the WTO, it is generally acknowledged that, with respect to the **Millennium Development Goals** (MDGs) for 2015, the States concerned and the international community are going to fall well short of attaining them. A lack of sustained political will, combined with the current sharp downturn in global economic prospects, may make it unlikely that the necessary financial resources will be deployed by governments and the international donors. A new instrument, therefore, that could be used by governments and the international community to support development through the attainment of the MDGs was welcome. The Government of **Mexico** noted in this regard that it would hope to see the DGPs provide orientation in fulfilling the commitments under those MDGs of particular relevance to the rights of people living in poverty.

9. The recent adoption by the General Assembly (GA) of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR) may be taken as a clear indicator of the timeliness, relevance and potential usefulness of the DGPs. The Optional Protocol, like the DGPs, reinforce claims that economic, social and cultural rights are on an equal footing with civil and political rights and as noted by the **Independent Expert on human rights and extreme poverty**, it is to be expected that the work of the Committee on Economic, Social and Cultural Rights (CESCR) will develop a body of jurisprudence around these rights lending support to the important interface between international human rights law and the fight against poverty.

10. The DGPs have the potential to be a strong tool for governments in the design, implementation and evaluation of programmes and policies targeting people living in poverty and a useful lobbying tool for civil society organisations to encourage States to realise fully the rights of extremely poor persons. A number of

respondents³ see the implementation of Guiding Principles as the birth of a new advocacy tool for the achievement of the MDGs and Poverty Reduction Strategy Papers, based on a new common legal framework. This framework could help harmonise actions and partnerships on the ground and build foundations for efficient multi-stakeholder dialogues. As for all human rights standards, having the Guiding Principles reflected in legislation would also be an important part of giving them meaningful effect domestically.

11. While the adoption and implementation of revised draft Guiding Principles on Extreme Poverty and Human Rights were felt by virtually all respondents to be of great importance, especially for marginalised groups particularly vulnerable to poverty, such as, women, indigenous peoples, minorities, migrants, the internally displaced, children and orphans, it was noted that Guiding Principles would also be likely to benefit the community at large and a country as a whole.

12. In the **consultation on the DGPs undertaken with people living in extreme poverty**, respondents emphasised the importance of being afforded **recognition** by authorities and with this in mind, programmes and policies should be developed with their participation.⁴ They reiterated that those in positions of responsibility with respect to people in poverty need to meet and talk with poor women and men, in order to gain their trust and involve them in finding solutions. Building genuine relationships takes time because, all too often, people in poverty are ignored or exploited. An added value of Guiding Principles that should not be overlooked then is the sense of personal dignity that comes from being acknowledged.

Technical merit of the DGPs from a legal perspective

Seminar Session 1

13. There is strong sense from among respondents that the draft Guiding Principles be revised with a view to becoming **a guide on the application of international human rights law** to the specific situation of people living in extreme poverty. They might first affirm the international legal norms compliance with which is required by all States, those enshrined in legally binding human rights instruments, as well provide recommendations on how States, as well as other actors, can implement their respective obligations and duties. As the Government of **Switzerland**, the **Independent Expert on human rights and extreme poverty** and **Wouter Vandenhole** remarked, the objective should not be to create new human rights standards, but rather to reflect existing human rights norms as applied to extreme poverty. As noted above, clarification is also needed on the degree to which the Guiding Principles might strike a balance between

³ Government of **Ireland**, **Comité Supérieur des droits de l'homme et des libertés fondamentales de la Tunisie**, **Joseph Ingram**

⁴ This consultation was organized by the **International Movement ATD Fourth World**. Its report as submitted provides that the views were solicited of people living in extreme poverty in France, Peru, Poland, Senegal, Switzerland and Thailand.

contextualising and clarifying the application of human rights standards, and informing their operationalisation.

14. Virtually all respondents emphasised the need to ensure that the Guiding Principles be written in a manner that conforms with the agreed **language, terms and principles** found in international human rights instruments and developed through jurisprudence (e.g. General Comments). In expressing its concern that the DGPs might not conform closely enough to the current state of international law and human rights, the Government of **Switzerland** noted the importance of having the Guiding Principles drafted in language that guides and aids States in their efforts at implementation, as did the Government of **Finland**. As several respondents noted, Guiding Principles, for example, might also benefit from a focus on the **typology** of respect, protect and fulfil obligations already widely in use by human rights bodies. They would also need to reflect the principle of **progressive realisation**, including in relation to the principle of minimum essential levels of rights and corresponding **core obligations**⁵. These are important also from an operational perspective, so that a government's political will to meet its human rights obligations can be monitored and ascertained, since States are supposed to strive to protect, promote and fulfil the economic and social rights to the **maximum extent of their available resources** despite economic and other resource constraints. By systematic monitoring available through the measurement of the fulfilment of obligations, the attention of governments and donors are drawn to where additional resources need to be deployed. The Government of **Mexico** suggested also incorporating the principles of **equity**, with an emphasis on the access to human rights by the extremely poor; an holistic approach, to promote the convergence of actions, coherence of objectives and the efficiency of policies and poverty reduction programmes, including greater linkages to national development processes, and; social cohesion, with the aim of promoting community development, democracy and discouraging discrimination and stigmatisation.

15. A general conclusion can be drawn that Section 3 on international cooperation does not reflect the current understanding in the political realm nor in mainstream human rights scholarship of the notion of **international assistance and cooperation**, and the obligations incumbent on a variety of actors⁶. It was noted that conceptual developments in emerging scholarship on the issue of extraterritorial and transnational obligations do not seem to be reflected in the DGPs.

16. The **South African Human Rights Commission** expressed concern that the current references to criminal penalties for negligence would deter people from acting to ensure the progressive realisation of social and economic rights, highlighting paragraphs 23, 27 and 33. Although the Commission did see a place for criminal sanctions in certain contexts, they might not be the most effective way of advancing the objectives of the Guiding Principles. There were several comments to the effect that **excessive reference is**

⁵ Edward Anderson, David Gordon, Joseph Ingram and Wouter Vandenhole

⁶ Camilo Pérez Bustillo, Wouter Vandenhole and Sarah Zaidi

made to penal law⁷, and criminal law language used is in most cases inappropriate. One respondent thus suggested that this language should be used and reference to penal law should be made only in exceptional circumstances, in light of established case law (e.g. in relation to torture). This concern is revisited in greater detail below in relation to specific paragraphs.

17. The DGPs therefore need to be carefully reviewed to identify all **inconsistencies with existing human rights standards**. They should be rephrased so as to tie into the authoritative interpretation already given to each human right. Both the wording and content given to human rights in the context of extreme poverty should echo authoritative interpretations and refer to them explicitly. It was also deemed imperative that the Guiding Principles do not undermine existing legal norms by introducing restrictions, limitations or distinctions that are incompatible with existing international standards. While a number of respondents highlighted that the Guiding Principles should not merely reiterate existing standards, **COHRE** urged that every care need be taken to ensure that they don't inadvertently set out a lower standard than is established elsewhere. As raised by a number of respondents and revisited below, the right to "drinkable" water, for example, could be replaced with a right to water and sanitation in order to provide an accurate expression of the norm.

18. The DGP text would also benefit from **harmonisation** as to the use of terms. For example, it applies different expressions despite provisions seeking to convey the same meaning, rendering the interpretation of the text difficult. This applies in particular to the variety of terms used to refer to the subjects of the Guidelines i.e. persons living in extreme poverty.⁸

19. Similarly, the text could be clarified when it refers to States' obligations with respect to the Guiding Principles. Various provisions are drafted in different manners: "Governments have a duty" (para.17), "the State must" (para.18), "States will" (para.19), "the State is duty-bound" (para. 20; 21; 29), "the State is under the obligation" (para. 26). It was noted that the text should be carefully drafted to indicate where different levels of obligations are intended which will serve to avoid subsequent problems of interpretation. The Government of **Switzerland** remarked that wording and expressions should not be used which would give the impression that the Guiding Principles create obligations for States (beyond those which already exist) and, in an impermissible way, require specific action on the part of States. Likewise, respondents

⁷ **Zdzislaw Kedzia, Wouter Vandenhole**

⁸ **The Independent Expert on human rights and extreme poverty** and the **2008 NGO Consultation** findings recommend the following amendments: The expression "**persons living in extreme poverty**" could replace "poorest people" (para. 8), "poor people" (para. 23), "persons living in hardship" (para. 25), "highly underprivileged individuals" (para. 25), "poor people living in areas of extreme poverty" (para. 26), "all who live in extreme poverty" (para. 32). The Government of **Mexico** recommended the use of the term "persons in situations of poverty". One NGO suggested substituting the notion of "the poor" (or comparable language) with that of poor men and women, to emphasize the diversity of people living in poverty.

recommended that greater rigour be applied to the language used when referring to the duties of non-state actors and of “the international community”. As remarked by many respondents, the DGPs need also be carefully reviewed to ensure that all categories of persons living in extreme poverty are covered by relevant provisions.⁹

Structure

20. A number of respondents suggested that the structure of the DGPs could be improved upon.

21. The structure should reflect the need to pay greater attention to some well-established principles in international human rights law of central relevance here, such as the prioritisation of the most vulnerable groups and minimum core obligations, the principles of maximum available resources and of non-retrogression, as well as those already reflected in the DGPs, such as the indivisibility and interdependence of rights, non-discrimination, participation, transparency (with regard to corruption) and accountability.

22. The **Independent Expert on human rights and extreme poverty** suggested that restructuring might devote Section 1 to international human rights principles and include the section on “right to justice” (K) within the sub-section on civil and political rights (D), which would form part of a general section on rights. Along the lines of what is currently provided for in the DGPs, the last section could have a part covering “obligations of international assistance and cooperation” and one addressing “duties of non-state actors”.

23. In querying whether at this point in time it is useful to continue to highlight the distinction between the two sets of rights, **COHRE** and the **UNDP** endorsed the idea of a modified structure that seeks a **genuine reconciliation** with the original vision of the Universal Declaration of Human Rights (UDHR). The **UNDP** also remarked that it may be useful to explain at the beginning the rationale for addressing the selected principles and standards (e.g. by stating that based on research it is these rights that are most often affected when people live in extreme poverty). It would then be helpful to highlight in greater detail why each of the principles and standards is particularly relevant for persons in extreme poverty (rather than repeatedly stating that they have the same rights as other people).

24. Below is a revised structure integrating the views of the **Independent Expert on human rights and extreme poverty** and of respondents¹⁰ that commented on this element:

Preamble: (stressing States’ obligations and the fact that the DGPs address existing obligations tailored to the rights of persons living in extreme poverty);

⁹ For omissions in the DGPs regarding categories of persons see Part 3 below: Views and comments on other issues not covered in the current DGPs.

¹⁰ Government of **Mexico, 2008 NGO consultation**

Section 1. Principles

- Indivisibility and interdependence of rights
- Equality and non-discrimination and stigmatisation
- Participation
- Transparency
- Equity
- Accountability
- Prioritisation of the most vulnerable
- Minimum essential level of rights/core obligations
- Maximum available resources
- Non-retrogression

Other principles recommended for inclusion, as noted earlier, are the holistic approach and social cohesion.

Section 2. Rights (includes all rights as relevant and rendered consistent with existing language in international human rights law);

Section 3. Obligations of international assistance and cooperation

Section 4. Duties of non-state actors

Annexe: Suggestions are a checklist, explanatory note, timeline, reporting template

2. COMMENTS ON THE CONTENT OF THE DRAFT GUIDING PRINCIPLES

Seminar Session 3

Preamble

25. Preambular paragraphs 1-3 that refer to key human rights and related instruments (e.g. Declaration on Social Development, Millennium Declaration) and the enshrined commitments to a right to live free from poverty provide an important framework. Several **NGOs** suggested however, that it would be appropriate to include specific references to relevant human rights instruments, beyond those few mentioned, among others, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, as well as the Declaration on the Right to Development.

26. It was further provided by **Camilo Pérez Bustillo** that the current emphasis on the relationship between human rights and poverty is deeply grounded in Articles 22, 25, and 28 of, *inter alia*, the UDHR, and that the preamble could explicitly reflect these elements. They refer to the “right to social security and

an entitlement to the realisation, through national and international cooperation...of the economic, social and cultural rights indispensable for [each person's] dignity and for the free development of their personality" (Art. 22); the "right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control" (Art. 25); and the entitlement "to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised" (Art. 28).

27. The **former Independent Expert on human rights and extreme poverty** remarked on the importance of existing human rights norms and standards in the context of the fight against extreme poverty and suggested that where appropriate the binding character of the obligations associated with those rights under international treaties be spelled out in the Guiding Principles.

28. The absence in the preamble of any reference to the MDGs¹¹, as well as a number of relevant policy documents was also noted, such as work produced by the Office of the High Commissioner for Human Rights, notably the Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies,¹² and work by the UNDP and other agencies in this area. The Government of **Mexico** recommended an explicit reference to MDG 1 in particular, given its focus on eradicating extreme poverty and hunger.

29. The **Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people** suggested that due to the uniqueness and severity of the poverty issue for indigenous peoples, a specific reference to indigenous peoples in the preamble should be included, as has been done for women and children, and he proposed language to those ends.¹³

30. It was suggested that any distinction between the notion of extreme poverty and a generally accepted notion of poverty that is applied in the Guiding Principles may need to be more clearly set out in the preamble. The Government of **Italy** suggested emphasising the linkage between human rights, human development and human security in the preamble, a view shared by several NGOs. In particular, the close relationship between disarmament and development, as laid out in the United Nations Declaration on the Right to Development was highlighted.

¹¹ **Zdzislaw Kedzia**

¹² These guidelines were drafted by Paul Hunt, Manfred Nowak and Siddiq Osmani.

¹³ Recalling that in Resolution 2004/62, the Commission on Human Rights expressed great concern "about the precarious levels of economic and social development that indigenous people endure in many parts of the world and the disparities in their situation in comparison to the overall population, as well as about the persistence of grave violations of their human rights."

31. The **Independent Expert on human rights and extreme poverty** made a number of suggestions that she felt would improve the preamble. For example, PP4, PP5, PP7 and PP8 which all address the commitments affirmed by the General Assembly could be combined into one paragraph and simplified by grouping the relevant resolutions of the GA within one paragraph and the ideas that function together, namely that:

- i. extreme poverty and exclusion from society constitute a violation of human dignity
- ii. extreme poverty persists in all countries of the world, regardless of their economic, social, and cultural situation
- iii. women and children are the most affected by extreme poverty
- iv. the eradication of extreme poverty constitutes a major challenge in the process of globalisation
- v. extreme poverty (widespread absolute poverty) is an impediment to the full and effective enjoyment of human rights

32. She suggested that PP 6, 9, 10 and the relevant parts of PP 7 could be placed together and combined into one or more paragraphs that highlight key concepts already mentioned (e.g. the inherent dignity of all members of the human family; the importance of international cooperation in the elimination of poverty) as well as principles that should be mentioned: participation, the importance of prioritising people living in extreme poverty, equality and non-discrimination, and transparency and accountability. The newly drafted paragraph(s) might usefully be preceded by the definition provided in operative paragraph 1 (“Understanding that poverty is a human condition characterised by...”). The **Special Rapporteur on indigenous people** noted that international and national policies as referred to in preambular paragraph 7 will only be effective if they incorporate the active participation of and consultation with the affected people.

33. The Government of the **Philippines** suggested that the phrasing of the PP 7 recognising that “eradication of extreme poverty constitutes a major challenge in the process of globalisation” be modified to call not only for continuous international cooperation and decisive action for the eradication of extreme poverty on the national level, but also on the sub-national level.

Seminar Session 3

Human rights and extreme poverty: the rights of the poor (Introduction)

34. While the concept of poverty was defined, although perhaps incompletely, it was pointed out by a number of respondents that the **concepts of extreme poverty, basic poverty** as well as **social exclusion** used in the DGPs were not defined and that these omissions needed to be addressed. There was a sense nonetheless among some respondents¹⁴ that a **general definition of poverty** would also be important to the understanding and interpretation of the text and needed to be drafted in a way that is clear and suitably comprehensive yet delimits the subject matter for the purposes of the DGPs.

¹⁴ **Bahá'í International Community, Kamal Siddiqui, 2008 NGO consultation**

35. The Government of **Greece** remarked that while for the purposes of guidelines any definition should not be too strict, defining specific dimensions of extreme poverty would make it clear for whom the State's actions and commitments are meant, and would facilitate prioritisation. **Dr. Edward Anderson**, University of East Anglia, noted that countries will have their own definition as does the international community (\$1 a day) and suggested the greater focus should be on clarifying the nature of the obligations as applied to people living in extreme poverty. The results of the **2008 NGO Consultation** emphasised the importance of maintaining a distinction in the Guiding Principles between poverty and extreme poverty, and to make clear that these Guiding Principles apply to the particular issue of extreme poverty (see notably footnote "a" in the GDPs). It further recommended a reference to how poverty can lead to extreme poverty, and drew on the work of former Special Rapporteur Leandro Despouy in this regard.¹⁵ This group of NGOs also suggested that the reference in the heading of this section to "rights of the poor" be deleted, since the DGPs do not aim to define a set of rights specific to people living in poverty but rather to guarantee their exercise of existing human rights. **Camilo Pérez Bustillo** on the other hand, felt that the DGPs would be further strengthened in terms of their potential impact on policy and decision-makers, advocates, and poor people's movements as an emerging global charter of the rights of the poor if, if they were extended beyond conditions of extreme poverty in particular to those of poverty in general, in a manner consistent with Amartya Sen's emphasis on understanding poverty as a lack of individual and collective control over one's own circumstances. **Paula Robledo** emphasised that poverty is not only the absence of material goods and social conditions, but of real opportunities to live a life of dignity.

Paragraph 1:

36. The Government of **Costa Rica** noted that the definition of poverty in paragraph 1 excludes the concept of "**circumstantial poverty**," which is neither continuous nor chronic but temporal and acute.

37. The Government of the **Philippines** remarked that the current definition of poverty does not recognise **transient poverty**, a phenomenon caused by sudden or temporary dislocation, which may be triggered by calamities and shocks, both natural and man-made, leading to a loss of employment, livelihood, income and assets, thereby rendering a family extremely poor.

Paragraph 2:

38. Certain dimensions of extreme poverty, according to the Government of **Greece**, would include: income poverty, living conditions, material deprivation, social exclusion and inability to access basic goods and services (where accommodation, education, health and decent work should be explicitly noted).

¹⁵ "Poverty leads to extreme poverty when it simultaneously affects several aspects of people's lives, when it is prolonged and when it severely compromises people's chances of regaining their rights and of reassuming their responsibilities." E/CN.4/Sub.2/1996/13, Annex III.

39. The **former Independent Expert on human rights and extreme poverty** stressed the need for a working definition of extreme poverty, so that indicators could be established and the situation with regard to extreme poverty as a human rights violation monitored. That extreme poverty includes the lack of basic security, capability deprivation, and social exclusion suggests poverty could be defined as “a composite of income poverty, human development poverty and social exclusion.”¹⁶ Such a definition, he suggested, would facilitate the development of a social consensus, and targeted and integrated policies for each component of the rights associated with extreme poverty could be developed, as could minimum standards and core principles, to be fulfilled immediately.

40. The Government of **Argentina** remarked that extreme **poverty is a violation** of basic rights and a leading factor in aggravating discrimination. The **Commission Nationale Consultative des Droits de l’Homme** (Republique Française) similarly sought to emphasise that extreme poverty should be considered as a “violation” of human rights – a continuous violation of specific civil, political, economic, social and cultural rights – and not merely a negation of human dignity. The Government of **Finland** is of the view that Guiding Principles should not state that poverty as such constitutes a human rights violation but that the reasons and consequences for extreme poverty often constitute various violations of human rights. The Government of **Mexico** recommended the following language: “extreme poverty, discrimination and social exclusion are a violation of human dignity; therefore priority must be given to the adoption of measures at national and international levels”.

Paragraph 3:

41. The **Independent Expert on human rights and extreme poverty** emphasised that the human rights principles are the foundations of the DGPs and should all be explicitly stated and explained in the specific context of extreme poverty. They include: universality, indivisibility and interdependence, inalienability and non-derogability, and equality and non discrimination.

42. The Independent Expert suggested that **non-discrimination** should also be developed in this section thereby grounding and rendering consistent the references provided elsewhere in the DGPs, and situating non-discrimination as an overarching element (see e.g. ICESCR Art. 2.2).¹⁷ The definition should draw from the provisions in the International Convention on the Elimination of all Forms of Discrimination, the Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, and adapt them to the situation of extreme poverty. The definition would

¹⁶ E/CN./2005/49, para. 18.

¹⁷ “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

also serve to group together the criteria of grounds for discrimination and stigmatisation that can be found throughout the DGPs. To these ends, the Independent Expert proposed the following **working definition**:

Discrimination of persons living in extreme poverty shall mean any distinction, exclusion, restriction, or preference based on individual's sustained or chronic deprivation of and lack of access to, resources, capabilities, choices, security and power, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of all human rights and fundamental freedoms in the political, economic, social, cultural or any other field. It can be combined with other forms of discrimination, including on grounds of race and colour, age and gender, religion, political or other opinion, national or social origin, property, birth, nationality and residential status, disability, physical appearance or any other consideration stemming from extreme poverty or causing de jure or de facto stigmatisation and discrimination.

43. **COHRE** noted that this process constitutes a unique opportunity to recognise unequivocally poverty as a ground of discrimination, thereby enriching the international law *acquis* in this area.

44. The **People's Advocate of Romania** recommended that programmes for combating extreme poverty also include measures aimed at avoiding discrimination of those less poor.

Paragraph 4:

45. The **Independent Expert on human rights and extreme poverty** remarked that **participation** as it has been developed notably in the area of the human rights based approach to development could feature in this section; thereby explaining what is being referred to when the concept is used in subsequent parts of the text. The Guiding Principles could stress that the participation of persons living in extreme poverty must be understood not only as a means to an end but also as a fundamental human right. In order to be effective and meaningful, participation goes hand in hand with the freedoms of expression, assembly and association. It also goes together with access to information, which States must guarantee. Reference to a human rights based approach would also help bring a clear understanding as to the concepts of transparency and accountability, which she noted are essential when dealing with the impact of corrupt practices on the enjoyment of rights and freedoms.

46. The former **World Bank Special Representative** to the UN and the WTO suggested that paragraph 4 would be more useful if it provided specific examples of processes in which the poor could participate, for example, in the formulation of national development and /or poverty reduction strategies and programmes.

47. The **South African Human Rights Commission** suggested that the DGPs acknowledge States' responsibility to combat the extreme isolation of the rural poor.

Paragraph 5:

48. The **Special Rapporteur on indigenous people** remarked that the interests of indigenous peoples as distinct *groups*, and not just the interests of the individual persons living in poverty, should be taken into account, as prescribed by the UN Declaration on the Rights of Indigenous Peoples at Article 23.

49. The former **World Bank Special Representative** to the UN and the WTO suggested that the term “...in accordance with applicable legal norms” seems unclear. Are these norms national/local, or do they refer to international norms? If only national, then in many instances they could be meaningless in that “applicable legal norms” may fall well short of what is minimally acceptable. Does a **format or template** exist for the reporting referred to in Paragraph 5, and if not, should the Office of the High Commissioner not prepare one and recommend its usage to States?

50. The Government of **Switzerland** and **Zdzislaw Kedzia**, Member of the Committee on Economic, Social and Cultural Rights, suggested that the Universal Periodic Review be mentioned in paragraph 5.

Paragraphs 5 and 6:

51. The Government of **Argentina** remarked that in spite of the influence of intergovernmental organisations, national and transnational enterprises and non-governmental organisations, only the State or armed groups acting under State consent could be considered as violators of human rights by action or omission.

52. The former **World Bank Special Representative** to the UN and the WTO suggested incorporating, possibly into paragraphs 5 or 6, the requirement that country economic and sector analyses (ESW), conducted by the government and/or donor institutions (e.g. the international financial institutions) explicitly identify the poorest and the most marginalised, and that national development or poverty reduction strategies and programmes address the needs of the poorest as a priority, with an appropriate level of budget resources allocated over time (“progressive realisation”).

53. He also suggested that with respect to paragraphs 5 or 6, a recommendation could be incorporated calling for human rights, though especially economic and social rights, to be integrated into the process of state building. Specifically this would require donors to help governments strengthen national accountability mechanisms such as national human rights offices, ombudsmen, courts, legislative bodies, NGOs etc.

Paragraph 6:

54. The **International Federation of Social Workers** considered the language of paragraph 6 to be somewhat strong and difficult to implement. A similar point was made by other respondents with regard to several provisions within the GDPs more generally.¹⁸

55. The **National Centre for Human Rights of Jordan** supports the idea of establishing an international court that criminalises poverty resulting from corrupt governance, and further notes that this paragraph is virtually meaningless unless it can stipulate which body or institution would hold the State accountable and ensure enforcement of their obligations. There was limited support elsewhere for such a proposal however.

56. In terms of this section more generally, the **People's Advocate of Romania** proposed a new paragraph addressing the provision of prevention measures and programmes directed at people who are facing great hardship, but who are relatively better off economically than people living in extreme poverty as a result of their own efforts. To ignore the situation of those people only slightly better off might tempt them to choose the option of relying on welfare assistance.

Section 1: Participation by the poor

Seminar Session 4

57. Participation as laid out in Section 1 involves costs, particularly for the extreme poor, which seem to have been overlooked. It was also noted that the economic and social rates of return on investing in girls vastly exceed any others, yet this value is not adequately reflected in the paragraphs on “Participation by the Poor”.

58. The importance of explicitly mentioning indigenous and tribal peoples in the section on participation was noted, given their rights to participate and decide their own priorities in the process of development, as outlined in ILO Convention No 169 on Indigenous and Tribal Peoples in Independent Countries and in the Declaration on the Rights of Indigenous Peoples.

59. Several NGOs¹⁹ proposed that the Guiding Principles should call on States to promote the participation of poor disabled persons and poor older persons in decision-making processes. The Government of **Finland** highlighted that the poorest should have the right to be informed of their rights as

¹⁸ **Zdzislaw Kedzia** remarked, for example: The DGPs often use the word “must”, including in relation to recommendations that go beyond the field of competence of the Human Rights Council. For example, paragraph 5 says *inter alia* “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.” It is not up to the Human Rights Council to *decide* what should be included in the reports to treaty bodies although the Council could, of course, “encourage”, “call on”, etc.

¹⁹ **2008 NGO consultation**

well as the obligations of their governments to implement those rights, and that language drawing attention to their right to receive this information should be included in Section 1.

60. The Government of **Finland** and **Care International** called for the inclusion of a text along the lines that the ability of the poorest to take part in decisions concerning themselves can be undertaken either directly or via representation by non-governmental organisations.

Paragraph 7:

61. **Light for the World** suggested revising paragraph 7 as follows: “Persons living in extreme poverty have the right to participate in all activities which concern them, particularly *full and effective inclusion in* programmes for the eradication of extreme poverty...”

62. **Professor Peter Townsend**, London School of Economics, suggested a reference be included to the effect that participation includes the right to participate in social security, including social insurance schemes.

63. The Government of **Georgia** remarked that the participation of people living in extreme poverty in programmes for the eradication of extreme poverty is voluntary. Therefore, the second sentence in paragraph 7 which holds that policies and programmes implemented without their participation constitutes a violation of the right to participate, should be omitted.

Paragraph 8:

64. The Government of **Costa Rica** suggested that it is necessary to add in paragraph 8 references to population groups who are at risk of being excluded from participation in decision-making, such as elderly persons, persons with disabilities, and indigenous groups.

Paragraph 9:

65. The **Secretariat of the Pacific Community** remarked that the feminisation of poverty and the participation of women in anti-poverty strategies are not the same issue and should not be together in a section on participation. She further suggested that recognition of the **feminisation of poverty** should be mainstreamed throughout the document (with Section 1A on participation just addressing the issue of participation of women in anti-poverty strategies).

66. The **Ukrainian Parliament Commissioner for Human Rights** recommended that this paragraph on the “feminisation of poverty” should also include a reference to undertake effective measures to prohibit

gender-based discrimination in all spheres of civil, political, economic, social and cultural life. **Care International** recommended that paragraph 9 of the DGPs address women's economic security, eliminating violence against women and achieving gender equality in democratic governance, and **Peter Townsend** remarked that a reference be inserted as to the principle that years raising a family must be added to years paying towards social security to establish the right of women equally with men to benefit.

Paragraph 10:

67. Notwithstanding paragraph 10 in which implementation and monitoring is addressed, to be truly useful, it was suggested that the Guiding Principles need to be monitored and their application by duty-bearers, donors and individuals, measured both in relation to resources available, and comparatively in relation to other countries with similar resource levels.

68. The former **World Bank Special Representative** to the UN and the WTO suggested that to be effective, a mechanism needs to be put in place to monitor whether the State and public and private agencies referred to actually encourage the use of fora for evaluation and monitoring and the extent to which the extreme poor actually participate in these events.

Seminar Session 4

Discrimination and stigmatisation

69. It was recommended that the conventional language of **equality and non-discrimination** be applied here. It was noted that just as discrimination of the poorest has an impact on human rights, so discrimination is also one of the major causes of extreme poverty.

70. Several respondents suggested specifically naming certain vulnerable groups requiring special measures.

71. The **Premier Avocat général a la Cour de Cassation (France)** and **former Chair of the Committee on the Elimination of Discrimination (CERD)** suggested a number of issues for inclusion, including notably: double/multiple discrimination (including on the grounds of sexual orientation); direct and indirect discrimination; and recognition that extreme poverty stems principally from structural causes. He also recalled a number of General Recommendations adopted by the Committee on the Elimination of Racial Discrimination of direct relevance to the DGPs.

Paragraph 11:

72. The **International Federation of Social Workers** suggested that the Guiding Principles stress that certain outward appearance or certain types of behaviour, including theft, aggression or other forms of violence, do not exclusively characterise the poor or extremely poor.

73. The Government of **Cost Rica** remarked that the Guiding Principles might usefully include a concept of “**auto-discrimination**,” the discrimination by some groups living in poverty against others in the same situation.

74. The **Equal Opportunity Commission of Hong Kong** suggested that stigmatisation based on social and income status should specifically be denounced.

75. The **South African Human Rights Commission** stated that though “discrimination affecting persons living in extreme poverty must be punished as a violation of human rights” (paragraph 11), the DGPs do not identify the entity responsible for punishing those who discriminate. The only obligation that paragraph 11 explicitly puts on States is to “criticise and combat stigmatisation of the poor and to promote a balanced and fair image of persons who are in situations of extreme poverty.” The failure to specify that States are responsible for punishing violations could be interpreted as encouraging vigilantism.

76. The Government of **Costa Rica** expressed concern about paragraph 11, which could be interpreted as denying the impact that means of communication and education systems have on discrimination and stigmatisation processes.

Paragraph 12:

77. The Government of the **Philippines** noted that paragraph 12 could be expanded to include a statement on **affirmative action**. Affirmative action in this context could include integrating issues of rights and non-discrimination into education or instituting/strengthening systems of monitoring and accountability regarding the media on these issues. Another respondent drew attention to the work of CERD on special measures and to the thematic discussion held by the Committee on the subject in August 2008 at its 73rd session.

78. It was suggested that there be included a reference to the need that educational curricula and media regulations be reviewed to ensure the elimination of harmful stereotypes of people living in extreme poverty. **Care International** suggested that paragraph 12 should call on States to allocate resources to public institutions working, for instance, in the education or media sectors in order to foster the development of an engaged citizenry.

79. The Government of **Mexico** recommended that the paragraph refer to the role that the media and education systems play not only regarding the dissemination of information to reduce discrimination and stigmatisation but also in generating conditions to increase the participation of the poor in decision-making spaces and to contribute to the elimination of the vicious circle of poverty.

Paragraphs 11-13:

80. The former **World Bank Special Representative** to the UN and the WTO suggested that with respect to these paragraphs, it should be recommended that **Poverty and Social Impact Assessments (PSIAs)** forming the basis of national development and poverty reduction strategies explicitly identify distinct groups which are part of the extreme poor as a result of discrimination or stigmatisation. This would imply that such assessments should, where possible, be systematically *conducted ex-ante* so that the potential winners and losers of a particular programme or reform could be identified ahead of time. It would help ensure that the government and donors “do no harm” to the poorest during the reform process.

Section 2:

Indivisibility and interdependence of rights

Seminar Session 4

81. The Government of **Italy** suggested highlighting the importance of the reference made in the DGPs to the concept of indivisibility and interdependence of all human rights.

Paragraph 14

82. The **Human Rights Centre of the University of Padova, Volontari nel Mondo-FOCSIV** and the **Associazione ONG Italiane** recommended that the first sentence of paragraph 14 specifically identify the human rights to which the sentence refers and include a mention of the right to the full enjoyment of global public goods.

83. It was remarked by **Light for the World** that paragraph 14 should include a reference to all human rights also being “interrelated,” as spelled out in the Vienna Declaration and Programme of Action. **Arne Tostensen**, noted that while recognising the coherence of the human rights regime, it should not be overlooked that in real-life situations difficult **trade-offs** have to be made. This is a difficulty of operationalisation on which the DGPs offer little guidance. Guiding Principles could acknowledge that trade-offs are sometimes unavoidable notwithstanding the counter-argument that such a concession may undermine the principle of indivisibility and interdependence. However, when implementers encounter situations where trade-offs have to be made, it could cause frustration and, in turn, also undermine the authority of the DGPs.

84. As noted earlier in the sub-section on Structure, the **UNDP** and **COHRE** suggested revising the structure of the DGPs to give real meaning to the principle of indivisibility and interdependence of rights.

Civil and political rights (includes the right to justice (K))

Seminar Session 5

85. The **Independent Expert on human rights and extreme poverty** remarked that with regards to political rights, an article recalling the right to participation in political life and making recommendation on its implementation could be a stand alone paragraph, drawing on the General Comments of the Human Rights Committee.

86. **Sarah Zaidi** emphasised the importance of clarifying State obligations, including in terms of the interdependence of rights in the fight against extreme poverty by remarking that a state governed by the rule of law can augment fiscal measures of wealth redistribution.

Paragraph 15:

87. “Effective” participation of persons living in extreme poverty should be included in paragraph 15. The **Special Rapporteur on freedom of religion or belief** recommends the following inclusion: “... They have the right to participate fully in the life of the community in which they live, *to manifest their religion or belief in worship, observance, practice and teaching ...*”

88. **In the consultation with people living in extreme poverty** on the DGPs, among the rights deemed of particular importance is the “right to possess **official citizenship documents**”.²⁰

89. The **International Federation of Social Workers** remarked on the high percentage of undocumented persons throughout the world and proposed that the second sentence of paragraph 15 recognise the right of persons living in extreme poverty to be registered at birth, entitling them to an identification document or other document constituting evidence of their legal status.

90. In fact, **HelpAge International** and **Sightsavers International** suggested adding a distinct provision on the **right to identity**. In particular, they highlighted the need to give persons living in extreme poverty access to identification documentation that would allow them to take advantage of other entitlements including health care, education and employment.

²⁰ Emphasis was also placed on the right to food, the right to health, and the right to education so that their children will not have to endure the same hardships that they have experienced.

91. The importance of mentioning that women and children have the right to their own documents was remarked upon, a right that is particularly important in cases of female headed households or abandoned or unaccompanied children.

92. It also was proposed to expand the list in paragraph 15 of groups whose protection should be ensured by States to include people with disabilities, people with mental illnesses, and indigenous people.

Paragraph 16:

93. In the **consultation with people living in extreme poverty** on the DGPs, the participants asked that the **right to live as a family** receive a stronger emphasis in the Guiding Principles. Similarly, the Government of **Belgium** considered that paragraph 16 could be fleshed out in more detail to address better the rights described therein (respect for privacy and family life).

Paragraph 17:

94. The **Representative of the Secretary General on the human rights of internally displaced persons** remarked that violence is not the only source of danger for people living in extreme poverty, as suggested in this paragraph. As experience shows, such people very often live in areas particularly exposed to environmental hazards such as flooding or landslides. It would be appropriate to include the obligation of States to protect the life of persons living in areas exposed to high risk of natural or man-made disasters. Where authorities fail to take well identifiable safety measures in areas exposed to such risks and preventive measures to mitigate those risks have been neglected, national governments can be held accountable.²¹ Whereas this obligation is certainly more relevant in highly populated urban dwellings with persisting patterns of extreme poverty it equally applies to persons living rural areas where they are exposed to similar risks.

95. The **NGO Committee for Social Development** suggested that the Guiding Principles recognise that States and their agents (e.g. the police) are not only required to provide protection but are *violators* of civil rights when they fail to protect, as well as when they act in a corrupt ways. **Care International** remarked that the drawing up of education programmes, as proposed in paragraph 17, is insufficient and suggested that the paragraph require States to allocate adequate resources to develop such programmes and stipulate that they monitor and follow up on these programmes.

²¹ See European Court of Human Rights, *Öneryildiz v. Turkey*, Application 48939/99, judgment of 30 November 2004, and European Court of Human Rights, *Budayeva and others v. Russia*, Applications nos. 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02, judgment of 20 March 2008.

96. The former **World Bank Special Representative** to the UN and the WTO remarked that there is an imbalance in the DGPs between how an individual (“person”) is to be held accountable and “punished” versus how a State is to be held accountable and punished, especially for failing to “provide protection to the poor” and “ensuring the protection of vulnerable population groups including the homeless, street children, the disabled and the elderly...”. As mentioned earlier, a number of respondents commented on the excessive - and in most instances inappropriate – use of language in this regard. He went on to question what precisely is meant by “protection” and why the concept of progressive realisation is not evoked in this context. If it were, State accountability could be better monitored and States themselves more easily incentivised to commit resources over time to providing such “protections”.

Paragraph 18:

97. The Government of **Belgium** suggested including in paragraph 18 a reference to **foreigners in regular or irregular** situations as being among vulnerable groups worst affected by extreme poverty, with the Government of **Mexico** recommending a reference to **migrants**. The **NGO Committee for Social Development** suggested that the Guiding Principles acknowledge that the inadequacy of policies for some groups of migrants effectively criminalises the poor and proposed that the Principles recognise that **economic refugees** should also have access to rights.

98. **The Secretariat of the Pacific Community** suggested the reference to the elderly be followed by a reference **widows** as one of vulnerable groups worse affected by extreme poverty.

99. The Government of **Costa Rica** noted that the expression “street children” is discriminatory; these children are not the property of the street and their status as minors implies that States or their trustees have responsibility for their welfare. It was suggested that a different means of expressing the idea that they are homeless be found. Similarly, the term “old people” (*ancianos*) in the Spanish version of the DGPs, should not be used; it should be replaced by “elderly people” (*personas adultas mayores*).

100. **COHRE** remarked that beyond the seemingly arbitrary list of affected groups provided in paragraph 18, the text would benefit from a different approach to affected groups, one not as likely to provoke controversy, or to divide the non-discrimination *acquis* arbitrarily.

Paragraph 19:

101. The **Special Rapporteur on indigenous people** highlighted the importance of having the State secure the “free, prior and informed consent” of indigenous peoples before adopting any measures as referred to in paragraphs 18 and 19.

Right to justice

102. The **Independent Expert on human rights and extreme poverty** remarked that the articles in the International Covenant on Civil and Political Rights (ICCPR) on equality before the law and administration of justice are complex, containing many provisions and cannot be easily reduced into the simple expression “the right to justice”. She highlighted that they encompass the issues of recognition before the law and of access to the justice system as well as issues pertaining to procedures in the administration of justice, noting that the provisions contained in article 39 and 41 of the current version of the DGPs contain initiatives aimed at guaranteeing some provisions in the various articles of ICCPR. She recommended amending the heading of this sub-section to “**access to justice, administration of justice and equality before the law.**”

103. The recently adopted **Optional Protocol** to the International Covenant on Economic, Social and Cultural Rights was noted by the **Commission Nationale Consultative des Droits de L’Homme** (Republique Française) as a very significant development in reinforcing the justiciability of all human rights and in refining the content of obligations to respect, protect and fulfil rights of people in situations of extreme poverty. The Commission further remarked on the importance generally of individual judicial recourse but also collective access for trade unions and associations as indispensable to the effective guarantee of the rights of the poorest. The Government of **Finland** similarly suggested placing further emphasis in the Guiding Principles on the **justiciability** of economic, social and cultural rights. **Kamal Siddiqui**, Member of the Committee on the Rights of the Child, recommended a provision addressing effective pro-poor justice at the grass-roots level by reforming and improving the existing adjudication process already in place at that level, since the formal justice system is too costly for the poor to afford.

Paragraph 39:

104. The Government of **Switzerland** remarked that the first line of this paragraph suggests that access to justice is limited to citizens.

105. In addition to recommending a reference to discrimination based on indigenous or ethnic identity be included in this paragraph, the **Special Rapporteur on indigenous people** remarked that not only should those living in extreme poverty have access to the justice system offered by the State, in relevant cases they should also have the opportunity to access **traditional/customary legal systems**. He thus suggested the inclusion of a provision in the Guiding Principles which stipulates that traditional/customary legal systems developed and utilised by indigenous peoples and other minority groups should be recognised and respected by the state justice system. The **Secretariat of the Pacific Community** highlighted the need to ensure that women and men are treated equally before all legal systems including customary and modern systems of justice, or the right to justice will remain illusory for many women.

Paragraph 40:

106. It was noted that this paragraph provides for free legal assistance but fails to address the important issue of court fees in civil proceedings that the poor often cannot afford.

107. The Government of **Belgium** proposed that the reference to legal assistance in paragraph 40 be complemented by an explicit reference to the obligation of the State and the judicial administration to provide the possibility of **legal redress**. The **2008 NGO Consultation** drew a similar conclusion, recommending a reference to the possibility of legal redress at the national and international levels for people living in extreme poverty.

108. It was stated that any concept of the “right to justice” should place as much emphasis on the ability of marginalised persons to enforce rights as it does on their need to defend themselves when they stand accused. It was elsewhere noted that there should be a reference that the State shall provide the possibility for people living in extreme poverty to be accompanied by a person of their choice during all legal procedures.

Paragraph 41:

109. Paragraph 41 recommends setting up programmes “to help the poor learn about their rights...” The former **World Bank Special Representative** to the UN and the WTO remarked that the key agencies in advising governments on their poverty reduction programmes are the World Bank and the UNDP. Through their requirement that the poor participate in the formulation and implementation process (PRSs), they feel they have provided a mechanism for engaging the poor in the poverty eradication process. The problem is, however, that the process puts the onus for knowing and claiming their rights squarely on the poorest themselves, who are unfortunately in the weakest position to do either. It is therefore necessary that the paragraph itself stipulate that either the government or the donor involved make it known to the poorest what their rights are, especially in terms of economic and social rights which normally don’t get the same attention publicly as political and civil rights.

110. The **Special Rapporteur on indigenous people** recommended that this provision be elaborated to mention that the educational and public information programmes on rights and judicial proceedings be made available in the relevant indigenous or minority languages. He suggested that this paragraph also stipulate that training programmes for judges and others should include intercultural training so that legal officers are well-versed in the customs and ways of life of those who come before the courts, many of whom are living in extreme poverty. This is vital for indigenous peoples, who often make up a disproportionate number of those in the court system, and who also may have different customs and practices as well as different conceptions of dispute resolution from those of the dominant society.

111. The Government of **Belgium** observed that only limited attention is given to the **right to information** in the context of an increasing **digital divide** and to the need for adequate distribution of information to people living in poverty.

Seminar Session 6

Economic, social and cultural rights

112. The **Independent Expert on human rights and extreme poverty** suggested that the understanding of these sub-sections could be made easier with an improved structure, starting with the enunciation of the standard, followed by recommendations to States and non-state actors on their implementation. Moreover, concepts developed in the treaty bodies' General Comments and Recommendations should serve as a basis. **Felix Kirchmeier** of the Friedrich Ebert Stiftung sought to draw attention to the focus provided in the Declaration on the Right to Development on the “constant improvement of the well-being of the entire population and all individuals” in the elaboration of policies and on “active, free and meaningful participation”, two elements that could serve as a chapeau for this section. This NGO respondent also suggested having the Guiding Principles clearly state that all persons living in extreme poverty have a right to development.

Right to food

Paragraph 20:

113. Many respondents stated that the formulation of the right to food in paragraph 20 should be in line with General Comment No.12 (1999) of the Committee on Economic, Social and Cultural Rights and with – as suggested by the UN Food and Agriculture Organization (FAO) – the FAO Voluntary Guidelines to Support the Progressive Realisation of the Right to Adequate Food in the Context of National Food Security. The **FAO** provided a new formulation as follows: “Every human being has the right to culturally and nutritionally adequate food, free from adverse substances. States and the international community are duty bound to ensure, as a minimum, the fundamental rights to be free from hunger, and to progressively realise the physical and economic access to adequate food for all.” The **National Centre for Human Rights of Jordan** highlighted that food should also be contaminant-free, with another respondent highlighting concern around GMOs.

114. The Government of **Colombia** suggested rephrasing the second sentence in paragraph 20 to read “the State and the international community should guarantee each human being, individually and in community, the rights to access food physically and provide him with the economic means to have access to a basic food supply.”

115. The **People’s Advocate of Romania** proposed a new paragraph addressing the need for an assessment of the level of extreme poverty, through the introduction of regulations designed to ensure **the minimum amount of calories** required for the functioning of the human body. The Advocate sought to ensure that the Guiding Principles don’t limit measurements to \$1 a day.

116. **Sarah Zaidi** commented on the absence of any reference to the chronically malnourished. She also suggested addressing, for example, to the relationship between the right to food and market access, the regulation of market prices for basic commodities, seed patenting, and other structural situations affecting the poor.

117. Another respondent suggested that a text be added to paragraph 20 requiring States to tackle hunger immediately and to desist from starving people under their control, including **prisoners and asylum-seekers**.

Paragraph 21:

118. The **Representative of the Secretary General on the human rights of internally displaced persons** remarked that paragraph 21 rightly emphasises the importance of recognition of property rights for food security but only speaks about the rural population. While in urban settings the issue is not agricultural land, somewhere reference should be made to the importance of property protection for the livelihoods of the **urban poor**. Paragraph 21 also limits the protection and demarcation of lands belonging to **minorities** to “minorities descended from slaves”, a limitation that is certainly not justified.

119. **FAO** and others stressed that the **narrow focus on “ownership”** of land in paragraph 21 could be usefully complemented by the concepts of **secure tenure** and **usufruct rights** over land and other natural resources (“security of land tenure”).

120. The **Special Rapporteur on indigenous people** suggested changing the wording in this paragraph from “indigenous population groups” to indigenous peoples, and from “lands belonging to” to “lands traditionally owned, occupied or otherwise used or acquired”, in accordance with the UN Declaration on the Rights of Indigenous Peoples. The Declaration states at Article 26(1): “Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied otherwise used or acquired.”

121. The Government of **Colombia** also suggested replacing “agrarian reform” in the second sentence of paragraph 21 with “mechanisms and policies” and “minorities descended from slaves” in the same sentence with “Afro-descendants.” **Kamal Siddiqui**, Member of the Committee on the Rights of the Child, suggested that agrarian reforms should include changes in existing tenurial relations (for example, terms of share

cropping) which are detrimental to the interests of the extremely poor. Similarly, irrespective of the ownership status, the extremely poor should not be evicted from the land of which they are in possession without adequate compensation/alternative arrangements.

122. The **South African Human Rights Commission** pointed out that women and girls who work or live on farms are acutely vulnerable to violence, including **sexual violence**, and discrimination. Therefore it proposed that the Guiding Principles address the issue of gender-based mistreatment in paragraph 21. It also indicated that protection of **grazing rights** should not be limited to nomadic herders.

Paragraph 22:

123. **FAO** requested clarification of the phrases “organised arrangements” and “distribution of food or similar measures” in paragraph 22, and suggested that the paragraph be reformulated as follows: “In situations where food assistance is deemed the most appropriate way of providing emergency relief or a safety net, the food should be safe and nutritionally and culturally adequate. Food distribution should be organised in ways that respects human dignity and ensures the fullest possible participation by the population groups concerned.”

124. **HelpAge International** and **Sightsavers International** recommended including the prevention of discriminatory distribution of food in humanitarian responses. **Volontari nel Mondo** recommended that participation in food assistance arrangements by population groups concerned, as set out in paragraph 22, be organised in such a way as to avoid dependence and respect biodiversity. The Government of **Switzerland** suggested that the Guiding Principles should address the strengthening of the role of the poorest in humanitarian programmes, so that people living in extreme poverty are not simply passive beneficiaries of such programmes.

Paragraph 23:

125. **FAO** recommended that the word “international” be removed from the first sentence of paragraph 23, as theft of humanitarian assistance should be an offence whether it is national or international. It also questioned the appropriateness of requiring “exemplary punishment” for food smuggling etc. in light of the principle of proportionality. It pointed out that the concept of “food smuggling” would require further clarification and might not, in fact, constitute a violation of the right to food. Since the concept of “perished foodstuffs” is not defined, **FAO** suggested substituting the word “perished” with “expired.”

126. **Kamal Siddiqui**, Member of the Committee on the Rights of the Child, emphasised that hoarding of food for super profit should be included in the offenses mentioned at paragraph 23. He further noted that the

offenses mentioned in this paragraph are not only criminal behaviour of the gravest order but they also constitute violence against the extreme poor.

127. In terms of omissions to this sub-section generally, a range of respondents drew attention to the **special situation of women and girls** living in extreme poverty and suggested that the Guiding Principles recognise gender-specific aspects of the right to food, such as basic needs during pregnancy. With regard to the sub-sections on the right to food and on the right to water, the Government of **Finland** suggested clearly defining the most vulnerable people: the sick, pregnant women and children.

128. The **NGO Committee for Social Development** highlighted the absence of any reference in the DGPs to international responsibilities in times of natural disasters such as drought or tsunami in relation to the right to food and people living in extreme poverty.

Right to health

Seminar Session 6

129. The **Independent Expert on human rights and extreme poverty** recommended that the heading of this sub-section be amended to “the right the enjoyment of the highest attainable standard of physical and mental health”. The Government of **Finland** would hope for more specific **operational guidelines** for use by governments. To these ends the sub-section on the right to health might mention a **minimum level of gross domestic product** that States should direct to health care.

Paragraph 24:

130. That the accepted terminology, notably, the right to the highest attainable standard of physical and mental health be referred to throughout Guiding Principles was repeatedly stated. The **Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health** further provided that in paragraph 24 it should be noted that “everyone” has the right to the highest attainable standard of health. The poor being disempowered are more vulnerable and are therefore prone to health violations. The State has the obligation to promote, protect and fulfil the right to the highest attainable standard of health of its entire population.

131. Alternative language to paragraph 24 of the DGPs as proposed by **the Special Rapporteur on the right to health** reads as follows: “Everyone has the right to the highest attainable standard of physical and mental health. As people living in poverty are more vulnerable to the denial of the right to the highest attainable standard of health, the State must take proactive steps to realise the right to health amongst those living in poverty by promoting, protecting, and fulfilling the right amongst them”.²²

²² The right to the highest attainable standard of health is inclusive of both physical and mental health.

132. The Government of **Colombia** suggested noting in paragraph 24 that persons living in extreme poverty should have “priority” in all health services. With the Government of **Finland**, the **South African Human Rights Commission** and others suggest that the section on the right to health include explicit provisions for the protection of **reproductive health rights** for women living in extreme poverty.

Paragraph 25:

133. The **Special Rapporteur on the right to health** remarked that it should be appreciated that everyone has the right to be treated with respect and dignity, and the poor in particular because they are marginalised and do not have access to appropriate services. Health-care professionals should be sensitised therefore to the particular needs and circumstances of the poor.

134. Alternative language to paragraph 25 of the DGPs as proposed by the **Special Rapporteur on the right to health** reads as follows: “Everyone has the right to be treated with dignity, respect, and humanity by health care providers, and particularly the poor as they are marginalised. Health-care personnel/providers must be sensitised to the living circumstances and particular needs of the poor so they can appropriately serve and provide them with the treatment needed. Health-care personnel/providers should be trained and encouraged to form partnerships with the poor”.

135. The absence of any reference to affordable (or free) healthcare was noted, with the Government of the **Philippines** expressing the view that access to quality and affordable essential health goods and services is a right of people living in poverty. These goods and services should be made accessible and available, particularly in times of need. People living in hardship should be provided with assistance (financial and logistical) for curative health-care, especially in cases where preventive health-care programmes are absent or ineffective.

Paragraph 26:

136. **HelpAge International and Sightsavers International** suggested adding “**mental and chronic illnesses**” to the existing list of ailments in paragraph 26 to which people living in (areas of) extreme poverty are exposed.

137. The **Special Rapporteur on the right to health** highlighted that the poor should also be encouraged to **form associations** so that they can demand their right to the highest attainable standard of health and eliminate the stigma and discrimination they face. Language of “design and monitoring” in eradication programmes should be used instead of the “execution” of such programmes. Moreover, it should be added that international cooperation initiatives also need to combat stigma, discrimination and inequality and that

retrogressive measures, which impede the right to health, such as imposing **user fees** by States should not be pursued.

138. Alternative language to part 1 of paragraph 26 as proposed by the **Special Rapporteur on the right to health** reads as follows: “The poor should be encouraged to form associations and have the right to actively participate in the design and monitoring of eradication programmes, so that they can effectively demand their right to the highest attainable standard of health”.

139. Alternative language to part 2 of paragraph 26 as proposed by the **Special Rapporteur on the right to health** reads as follows: The State is under an obligation to uphold the right to the highest attainable standard of health amongst its entire population, including those living in poverty and must **seek the assistance** of the international community, where situations overwhelm its capacity to respond. International cooperation should combat stigma, discrimination and inequality of services among those most vulnerable, especially those living in poverty. Factors which impede the realisation of the highest attainable standard of health, such as retrogressive policies and measures should not be pursued”.

140. The Government of **Belgium** noted that the last sentence of paragraph 26 was not sufficiently precise to capture the full complexity of international assistance. The **Ukrainian Parliament Commissioner for Human Rights** recommended exploring **mechanisms** for states to seek **international assistance** and receive it, in cases where governments are unable to ensure independently the right to health of the population, including of those living in extreme poverty.

141. **Kamal Siddiqui**, Member of the Committee on the Rights of the Child, suggested that the practice of the **multinationals** to earn super profit from generic life-saving drugs (for example, relating to HIV/AIDS) must be identified as a crime against the extreme poor.

Paragraph 27:

142. The **International Federation of Social Workers** proposed that the absence of health services in **remote locations** could be noted and remarked generally on the point that paragraph 27 was difficult to implement.

143. References in the DGPs to “negligence” or other “criminal” action might be replaced with references to the principles of **accountability and transparency** in decision-making and implementation.

144. The **UNDP** proposed that paragraph 27 highlight that ‘outsourcing’ / (semi-) **privatisation** of public services to private providers does not release the State of its relevant human rights obligations and requires the State to ensure that those providers acting on behalf of it uphold human rights standards and principles,

as well. This suggestion would apply equally to other human rights that are related to public service delivery.

145. Another respondent suggested an explicit reference be made to the links between, for example, nutrition (the right to adequate food) and the right to health.

Paragraph 28:

146. In this paragraph that seeks to address, theft, black-marketeering and related criminal activity, the **Equal Opportunity Commission of Hong Kong** recommended the inclusion of a reference to the issue of **trading in human organs** and the exploitation of people living in extreme poverty in this trade.

Right to drinkable water

Seminar Session 6

147. The Government of **Italy** and the **South African Human Rights Commission** proposed taking into account the recent report of the High Commissioner for Human Rights on the scope and the content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation (A/HRC/6/3). It states that people living in extreme poverty should have the right not only to drinking water but, more comprehensively, a right to **access safe drinking water and sanitation**, defined as “the right to equal and **non-discriminatory** access to a sufficient amount of safe drinking water for **personal and domestic** use – drinking, personal sanitation, washing of clothes, food preparation and personal and household hygiene – to sustain life and health”. In this regard, the **Independent Expert on the issue of human rights obligations in relation to access to safe drinking water and sanitation** and **COHRE** submitted that the norm encompasses more than solely drinking water, and suggested the right should be described as “the right to water and sanitation” and be harmonised with CESCR’s General Comment No.15 and the Sub-Commission Draft guidelines for the realisation of the right to drinking water and sanitation (E/CN.4/Sub.2/2005/25). COHRE further submitted that the right to water and to sanitation is in a period of dramatic normative expansion, and drew attention to the recent appointment of an Independent Expert on the issue of human rights obligations in relation to access to safe drinking water and sanitation and her plan to prioritise the sanitation component of the right in her first year of work. It remarked on the importance of ensuring that the Guiding Principles make a contribution to the development of this norm, particularly by devoting space to sanitation.

148. The Government of **Italy** emphasised the importance of the right to water as a **self-standing human right**, as recognised in General Comment No 15. It remarked that in line with the General Comment the Guiding Principles should underline the character of water as a **global public good**, as was also called for by the **Human Rights Centre of the University of Padova, Volontari nel Mondo** and **Associazione ONG Italiane**.

149. The Government of **Italy** also recommended that a **gender equality** approach be taken into account as regards the access to safe drinking water and sanitation. The **South African Human Rights Commission** suggested that the **equitable** distribution of water be addressed in the Guiding Principles. **HelpAge International** and **Sightsavers International** suggested including a reference to the accessibility of water resources for **older** and **disabled people** with **Care International** noting that **children** be explicitly mentioned, as they constitute the vast majority of those dying from dehydration and contaminated water. The Government of **Belgium** suggested **revising** the section on the right to water (paragraphs 29 and 30) to better address this complex issue.

Paragraph 29:

150. With regard to the reference in the DGPs that this “service should be free of charge”, the Government of **Switzerland** and the **UNDP** drawing on CESCR General Comment No 15, noted that it is generally accepted that water must be affordable, but not necessarily free. The Government of **Colombia** remarked that the State has the obligation to provide universal access to drinking water but that a responsibility exists on the part of the population to look after its sources of drinking water and to pay at least a minimum fee for the provision of water to ensure that the State can meet its obligation. It suggested rephrasing the first sentence of paragraph 29 removing the reference to water being provided free of charge: “People living in extreme poverty have the right to drinking water, and the State has the obligation to guarantee their access to this service.”

151. The Governments of **Georgia** and the **Philippines** proposed that States also be allowed the option of providing **subsidies** to people living in extreme poverty rather than providing water directly and/or free of charge, as called for in paragraph 29. **Edward Anderson** similarly pointed out that the Guiding Principles should be careful not to restrict unnecessarily the **policy space** of national governments. One respondent highlighted that the **World Health Organization (WHO)** has **calculated** the amount of safe water each individual requires daily and that these figures should form an explicit part of the GDP requirements (see footnote 1, CESCR General Comment No 15).

152. The Government of the **Philippines** further proposed that **floods** and other natural disasters be included as conditions under which States would be required to provide drinking water (in areas of widespread **rural poverty** as set out in paragraph 29), a proposal supported by the **South African Human Rights Commission**.

Paragraph 30:

153. Elaborating on paragraph 30 which begins by referring to the link between the right to water and the right to life, the Government of **Italy** and several NGOs stressed not only the interdependence between the right to water and the right to life, but its close links to other rights such as the right to housing, the right to health and the right to food.

154. The **NGO Committee for Social Development** noted that broader **environmental rights** are not fully addressed in the section on the right to water. It also indicated that no special mention is made of the **commoditisation** of water and contamination of natural resources due to actions of private enterprises and States.

155. It was also pointed out that the Committee on Economic, Social and Cultural Rights has enumerated in its General Comment No 15 a number of other acts/omissions which would constitute a violation of this right.

Right to housing

Seminar Session 6

156. As for the DGPs as a whole, this section needs to be rendered consistent with existing international human rights standards and language. As a start, the **Independent Expert on human rights and extreme poverty** suggested the heading of this sub-section refer to the right to “**adequate**” housing. **COHRE** emphasised that the current text in the DGPs on the right to housing constitutes a radical break from the right to adequate housing as currently recognised under international law.

Paragraph 31:

157. It was remarked that this general paragraph on the right to adequate housing is one of many examples where the DGPs lack **specificity** as well as a proper cross-referencing to the relevant General Comments. A number of respondents remarked that this paragraph says nothing about **forced evictions, destruction of informal settlements, security of tenure** in such settlements etc.

158. The **International Federation of Social Workers** suggested deleting the word “dignified” in the first sentence of paragraph 31 (“persons living in extreme poverty have the right to dignified housing ...”), or finding different language to express the idea that the right to housing is universal and that States should make efforts to ensure that minimum safety and health norms are maintained for occupants living in extreme poverty.

Paragraph 32:

159. The Government of the **Philippines** suggested that the right to housing be construed in the context of security of tenure instead of ownership. **COHRE** similarly remarked that the text places an emphasis on “**ownership**” which is generally missing from the relevant normative texts, most notably, CESCR General Comments No 4 and 7.

160. **Care International** suggested that the Guiding Principles stipulate that States have a duty to undertake legislative and administrative reforms to ensure **women’s rights to inheritance** and to ownership of land as key prerequisites to the eradication of poverty. The **South African Human Rights Commission** suggested generally that paragraph 32 of the DGPs pay particular attention to **gender-based** mistreatment.

161. The Government of **Georgia** remarked that it would be more appropriate for States to play a facilitating role in promoting access of the poor to housing than to be obligated to guarantee such access, as called for in paragraph 32. In the view of the Government of Georgia, the present wording of the paragraph would encourage the poor to take for granted the provision of housing, and moreover could not be practically implemented in countries with a **weak or transition economy**.

162. Several respondents noted that the current text seems to discriminate rural populations against urban populations living in extreme poverty and vice-versa. For example, it is unclear as to why paragraph 32 excludes “private and cooperative ownership” for rural dwellers, though not for **non-rural** dwellers.

Paragraph 33:

163. The Government of **Belgium** expressed the view that States should be free to determine **priorities** for their poverty eradication policies based on the situation at hand, rather than having a responsibility to place special emphasis on housing policy, as suggested in paragraph 33. **Care International** recommended using the word “priority” instead of “emphasis” in paragraph 33.

164. It was noted that paragraph 33 fails to mention that the State should guarantee “**access**” to **public housing** for the poor, instead it focuses on “involvement” in the “design, execution...” etc. of housing policy.

Right to education and culture

Seminar Session 6

165. The **Independent Expert on human rights and extreme poverty** recommended the modification of this sub-section heading to read: “**right to education and right to take part in cultural life**” noting that, as for the harmonisation of the DGPs generally, it would undoubtedly ease the understanding and interpretation of the document, as well as facilitate its acceptance.

166. **In the consultation with people living in extreme poverty** on the DGPs, the respondents emphasised the importance of the right to education so that their children will not have to endure the same hardships that they have experienced.

167. The Government of **Belgium** noted that the DGPs do not have specific provisions addressing “**youth**” and “**sport**” as important building blocks for facilitating the integration and participation of the poor. The Government of **Greece** suggested the inclusion of a reference noting that “States should endeavour to fight against **school abandonment**.”

Paragraph 34:

168. The former **World Bank Special Representative** to the UN and the WTO remarked that the DGPs are inadequate in their treatment of **girls** and especially their equal right to education. He noted that it is a widely acknowledged fact amongst development experts and economists, buttressed by substantial empirical evidence, that the single most important investment in the fight against poverty is the education of girls. As has been noted earlier, the economic and social rates of return on such an investment vastly exceed any others.

169. The Government of **Greece** suggested a reference be added to the effect that children be granted access to education, particularly those of **migrant** background, persons with **disabilities**, as well as vulnerable groups, such as women and girls who live in extreme poverty. The Government explained that the rationale behind this proposal is that studies by international organisations have shown that vulnerable groups also suffer from social exclusion. Another respondent similarly noted that the Guiding Principles should specifically require that education policy take into account the different situation of women and men living in extreme poverty and rectify inequalities between girls and boys with regards to the use of resources and access to rights.

170. It was remarked that the references in this paragraph of an entitlement both to “basic education” and “schooling at all levels” contradict each other. In the view of the Government of **Greece** persons living under conditions of extreme poverty should have a right to **access all levels of education** and recommends deleting the word “basic” from the provision. Another respondent highlighted the existence of the right to free primary education.

171. The **Representative of the Secretary General on the human rights of internally displaced persons** remarked that this paragraph guarantees access to basic education without discrimination but fails to address the number one obstacle for the poor, namely the issue of **school fees and costs for books**, uniforms etc. Also, absence of a family member during the planting seasons has an immediate impact on the family income and might put at risk their subsistence. Therefore programmes such as **school feeding** or measures to

provide school children with basic training materials contribute to compensate the loss of income or the additional expenses for a family that enrolls its children in school.

Paragraph 35:

172. The Government of **Switzerland** stressed that the poorest have not only the right to access to culture but also have **the right to protect their culture and identities**. It noted also the importance of protecting **moral and material interests** (intellectual property), including notably, the traditional knowledge of indigenous people(s) living in poverty.

173. The Government of the **Philippines** stated that the **definition of culture** as “special programmes affording access to culture, instruction, reading, art and literature” is quite limited. It would be more encompassing and beneficial if culture could be framed by considering the human rights context of culture as espoused by the 2004 UNDP *Human Development Report*. The *Human Development Report 2004* contextualised cultural liberty in the following terms: “The freedom people have to choose their identity – to be who they are and who they want to be – and to live without being excluded from other choices that are important for them. Cultural liberty is violated by the failure to respect and recognise values, institutions, and ways of life of cultural groups and discrimination and disadvantage based on cultural identity” (*HDR 2004*, p. 27).

Right to employment

Seminar Session 6

174. The **Independent Expert on human rights and extreme poverty** suggested the modification of this sub-section heading to read: “**the right to work**” with the views of the results of **2008 NGO Consultation** reflecting a preference for “**the right to employment, decent work and social security**”.

175. It was noted with regard to this sub-section too the economic and social rates of return on investing in girls vastly exceed any others. The former **World Bank Special Representative to the UN and the WTO** remarked that this value however, is not adequately reflected in the paragraphs “Right to Work” where there is also need to give extra importance to **female access** to employment and participation in community development, given the violations of women’s rights historically in most societies.

176. The Government of **Belgium** noted that paragraphs 36 and 38 on the right to work contain provisions that are not achievable in the short term.

Paragraph 36:

177. The Government of the **Philippines** stated that the right to work be complemented by a reference to the right to **livelihood**, since not all of the labour force can be accommodated in the labour market.

178. **In the consultation with people living in extreme poverty** on the DGPs, those who work testified to the harshness of their **working conditions** and the **low pay** they receive, making it impossible to escape from poverty, and they asked that a right to **time off** be included in the Guiding Principles.

179. The **2008 NGO Consultation** results supported the inclusion of a reference to **safety nets** for those in the **informal** sector or living in extreme poverty - with the **Secretariat of the Pacific Community** highlighting that it is a sector dominated by women thus requiring particular forms of protection - and drew attention to the standards in ICESCR and the UDHR in this regard. They also suggested the word “productive” (employment) be deleted because its definition usually does not include domestic work or work performed for one’s own consumption. The Government of **Greece** suggest the inclusion of a reference to proper **vocational training** for everyone.

180. **Arne Tostensen** queried the reference in the DGPs that “State policy should *guarantee* their right to employment”. Does it mean that States have a duty to engage in public works in order to create employment or dictate to the private sector that it create more jobs so as to instantaneously fulfil the right to work? He remarked that in the context of the ILO this has been a controversial issue and in the current globalised economy it seems hardly feasible. An alternative formulation would be preferable, for example, “States should create a policy environment conducive to pro-poor growth and employment creation.” Another respondent suggested that a salary that isn’t sufficient to lift a person from extreme poverty could not be justified.

Paragraph 37:

181. A number of respondents²³ suggested expanding the list of forms of **discrimination** in employment which States and society must strive to abolish to include discrimination based on **gender, age, and disability**. The **Equal Opportunity Commission of Hong Kong** suggested that the Guiding Principles stress the importance of the **removal of physical barriers for people with disabilities**.

Paragraph 38:

182. The **UNDP** suggested that in order to be instructive and useful, the term “fair labour codes” could be further elaborated upon by referring to the content of ILO conventions or illustrated by way of examples.

²³ **David Gordon, Secretariat of the Pacific Community**

183. The Government of **Greece** suggested that the first part of the paragraph be rephrased as follows: “*The State should implement policies to make work pay*, so that wage earners, both permanent, and especially temporary, and their families do not have to live in poverty despite going to work”. The Government suggested that this paragraph must also include a reference to health and security at work, since many people living in extreme poverty are forced to work under unhealthy working condition.

184. The **National Centre for Human Rights of Jordan** recommended that governments be urged to address the factors that prevent citizens from getting permanent jobs, which force them to accept low-paid temporary jobs and consequently suffer from **job insecurity**.

185. The Government of **Georgia** disagreed with the existing wording in paragraph 38, arguing that States may not have the possibility to oblige private legal or natural persons to pay higher wages than they are willing or able to pay. Imposing such an obligation on the private sector might decrease or delay employment of the population, as entrepreneurs would likely hire fewer people due to unnaturally raised salaries.

186. **Professors David Gordon and Tonia of Novitz**, University of Bristol, suggested that paragraph 38 include a reference to a **right to social security** and the right to freedom of association and collective bargaining. Part 3 on Views and comments on other issues not covered in the current DGPs further addresses concerns pertaining to the limited attention in the DGPs devoted to the right to social security.

187. In the **consultation with people living in extreme poverty on the DGPs** concern was raised about the elimination of **child labour**, unless it is accomplished within the context of an overall policy to raise families’ incomes. **Care International** recommended that the Guiding Principles focus on the duty to protect all children against harmful work rather than to seek a blanket ban on all child labour. **Kamal Siddiqui**, Member of the Committee on the Rights of the Child, proposed the last sentence of paragraph 38 reads as follows: “The State must eradicate child labour, prostitution, forced labour, contemporary forms of slavery and such other activities in which those living in extreme poverty are often constrained through rehabilitation, education and training, credit and alternative employment opportunities”. The results of the **2008 NGO Consultation** provided that the language of ILO Convention No 182 on the worst forms of child labour should be incorporated into this paragraph in order to seek to ensure the protection of children from forms of child labour that endanger their health, and prevent them from having access to the educational opportunities that will enable them later in life to escape from extreme poverty.

188. The **Special Rapporteur on Torture** remarked that the State is not under any general obligation to eradicate any form of prostitution, but only forced prostitution, trafficking or child prostitution.

189. **In the consultation with people living in extreme poverty** on the DGPs the respondents asked that laws and standards be enforced concerning the right to work, and regarding the protection of children from **human trafficking**.

Section 3

Seminar Session 7

State obligations and international cooperation

190. It was noted by the **Independent Expert on human rights and extreme poverty** and **Wouter Vandenhole** that the section on international cooperation should be solidly grounded in the authoritative interpretation provided by the UN human rights treaty bodies and should draw on the body of scholarly work built up in this area. Attention is drawn to Article 2.1 ICESCR,²⁴ CESCR General Comments 3 and 4 and applicable Concluding Observations. By way of example, the Committee has mentioned reviews of budget allocations for international cooperation, obligations to provide disaster relief and humanitarian assistance, but also the obligations of States to consider their obligations when taking decisions in intergovernmental bodies, and the fact that certain dimensions of these obligations under this article are of an immediate nature. As for all sections, the coverage of international assistance and cooperation should mirror the language found in existing standards and to these ends the Independent Expert recommended the heading of this subsection be amended to refer to **Obligations of International Assistance and Cooperation**.

191. **Wouter Vandenhole** also suggested that as far as economic, social and cultural rights are concerned, the tripartite typology of obligations (respect, protect, fulfil) could be introduced in this section. The typology allows for distinguishing between negative obligations (abstention from actions that are harmful to the extreme poor) and positive obligations (obligations of protection against third parties; obligations to facilitate, promote and sometimes provide human rights), thereby transcending a narrow understanding of international cooperation as a synonym for providing development assistance. Accepted language can be found in the Optional Protocol to the Convention on the Rights of the Child (“States in a position to assist”), the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. **Felix Kirchmeier** noted that links between human rights and duties of international cooperation are also asserted in the Declaration on the Right to Development.

192. The Government of **Belgium** recommended that paragraphs 42 to 44 on international assistance and cooperation be revised to better reflect existing norms, and sought to draw attention to the principles established by the Development Assistance Committee of the Organization for Economic Cooperation and

²⁴ “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

Development (OECD/DAC) regarding international cooperation. The Government of **Finland** similarly remarked on the need to improve this section and highlighted that while it should be distinctly stated that the primary responsibility belongs to the State concerned, the international community has a responsibility to create circumstances where the poorest States are able to discharge their obligations. The Government of **France** stated that the **first responsibility** to respect human rights resides with States.

193. The **Marangopoulos Foundation for Human Rights** drew attention to the relevant commitments assumed by States under the Copenhagen Declaration on Social Development and the Programme of Action of the World Summit for Social Development, reaffirmed in the Millennium Declaration.

Paragraph 42:

194. **Care International** suggested that the text refer to the obligations on all States to provide **social security** and protection for the poor and destitute to the “**maximum of their available resources**”. The **former Independent Expert on human rights and extreme poverty** suggested that States and the international community should work towards the fulfilment of rights, and to the extent that rights related to extreme poverty require only “progressive realisation”, no right should be violated in this process.

Paragraph 43:

195. **Care International** suggested paying special attention in paragraph 43 to the issue of **rapid response** to natural disasters, calling for greater consensus on early warning indicators, systems to produce such data and a streamlined decision-making process for delivering essential goods and services.

196. **In the consultation with people living in extreme poverty** on the DGPs it was remarked that extreme poverty cannot be resolved through charity, and **aid** should destroy neither the dignity nor the creativity of recipients. Public and private bodies engaged in the fight against extreme poverty should consider this aid as a support and an accompaniment based on trust and respect. They also highlighted the importance of having public officials work towards the elimination of **corruption** in order to ensure that aid actually reaches those most in need, rather than those relatively better off. The **Marangopoulos Foundation for Human Rights** recommended that the Guiding Principles reflect the idea that international aid should not have the character of temporary relief but of economic and technical support aiming at the economic independence of poor countries.

197. The **South African Human Rights Commission** suggested that the Guiding Principles recognise the responsibility of States and of the international community to craft social programmes to facilitate the long-term success of those **moving out of extreme** poverty.

198. One NGO suggested that **non-discrimination within international cooperation** should be included in the Guiding Principles, with special attention being paid to marginalised or vulnerable groups including **women, children, persons with disabilities** and the **elderly**.

Paragraph 44:

199. **The online civil society consultation** drew attention to the lack of reference within the DGPs to the larger **macroeconomic context**, such as the negative impacts of trade liberalisation on poverty levels in developing countries. The **Mouvement contre le Racisme et pour l’Amitié entre les Peuples** suggested that the Guiding Principles should call on States more clearly and firmly to seek **coherence** with their human rights obligations in the implementation of national economic, social and **trade policies** as well as regarding international commitments of a bilateral and multilateral nature. The **UNDP** suggested that **migration** could be mentioned in this paragraph as one of the areas requiring international action.

200. **Volontari nel Mondo** suggested a specific inclusion in the Guiding Principles on banning the use of predatory pricing policies (“**dumping**”) that negatively impact on developing countries. The **National Centre for Human Rights of Jordan** offered specific language with regard to a need for the WTO to find a just mechanism to control prices of raw materials and agricultural products while taking into account the real costs of production. The National Centre also raised concern with regard to customs protections by developed countries; agricultural subsidies; obstruction of South-South exchange, and the manipulation of the prices of raw materials. The **WTO Secretariat** remarked that it had no specific input to make on the DGPs submitting instead the Report of the Director-General of the WTO on the occasion of the mid-term review of the implementation of the programme of action for least-developed countries for the decade 2001-2010.²⁵

201. A number of respondents remarked on the importance of having the Guiding Principles address issues of **enforcement and accountability** more fully. The **Mouvement contre le Racisme et pour l’Amitié entre les Peuples** suggested that the Principles should call for the establishment of a claims mechanism on the international level by which a State is able to seek legal recourse in order to assert its rights or obtain reparations. The point was also made that several accountability processes can be carried out simultaneously and separately, including administrative procedures, social auditing, public scrutiny, and ‘naming and shaming’, in addition to treaty body mechanisms or judicial determination.

**Duties and responsibilities of public and private entities in
combating poverty**

Seminar Session 7

²⁵ WT/COMTD/LDC/13 of 22 November 2006.

202. The **Independent Expert on human rights and extreme poverty** suggested that this sub-section be entitled “**Duties of Non-state actors.**” She highlighted that the DGPs currently overlook the issue of responsibilities of national and transnational business enterprises. Although international human rights law traditionally binds States not corporations or business enterprises, there is growing evidence that international law in this area is trying to tackle this legal loophole and address issues of corporate behaviour and responsibility. The Guiding Principles have a role to play in providing suggestions as to how States can and should regulate when it comes to abuse by business enterprises.

203. She suggested that the Guiding Principles should be rephrased so as to take conceptual developments on the responsibility of **companies** and **international organisations**, amongst others, into account, while extending them to the issue of extreme poverty. Further, in the interest of rigour, the differentiation between the obligations of States and obligations of “private bodies/entities” would gain from being clearly acknowledged, including, as noted by the **UNDP**, to avoid misconceptions for audiences less familiar with these technical issues. The Government of **Finland** remarked that the DGP focus here is on eliminating poverty and not on actions that could improve the respect, protection and implementation of human rights of people living in extreme poverty.

204. At least one respondent proposed that **specialised agencies** and international organisations of the United Nations system be given separate consideration in the Guiding Principles²⁶. **The World Bank** and the **International Monetary Fund**, above all, should cooperate closely with organisations such as the **UNDP**, **FAO**, **OHCHR** and the **WHO**, in order to deal with different aspects of the issue of extreme poverty.

205. The **Commission Nationale Consultative des Droits de L’Homme** (Republique Française) would like to see international organisations, notably economic and financial, as well as bilateral agencies, take fully into account within their programmes this approach founded on human rights.

206. **Camilo Pérez Bustillo** remarked that the references in the DGPs to the obligations of development, financial and economic intergovernmental organisations and the responsibilities of transnational enterprises are critical in this context, particularly given what she characterised as their tendency to deny any responsibility to comply with international human rights standards, despite what she alleged as their role in producing and reproducing existing patterns of poverty and inequality through the policies they pursue. In addition to the work of *inter alia* CESCR, he drew attention to the Tilburg Guiding Principles on the World Bank, IMF, and Human Rights (2002), the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997) and the Limburg Principles on the Implementation of the International Covenant on Economic, Social, and Cultural Rights (1986) recommending that they are referred to explicitly in the DGPs, not least since they make up the body of an emerging alternative paradigm of “international poverty law”.

²⁶ **Camilo Pérez Bustillo**

Paragraph 45:

207. The Government of the **Philippines** suggested that types of public and private bodies “working to reduce extreme poverty and subject to **public disclosure** etc” as addressed in paragraph 45 should be enumerated in greater detail, including the private sector and corporate foundations.

208. **Care International** expressed concern that simply having organisations “account for their activities” may not be a sufficient means to ensure **accountability** and that these organisations should be required additionally to make publicly available evaluations of their work. The importance of having international organisations and other actors undertake **impact assessments** of their programmes and policies with regard to persons living in extreme poverty was also raised here.

Paragraph 46:

209. The point was made that **transnational corporations** (TNCs) and other business enterprises be specifically mentioned as having a responsibility to act with respect to international human rights and the Guiding Principles (and not just those entities “working on poverty”). **Peter Townsend** remarked that transnational corporations, such as those that have much larger annual resources than middle-income and low-income States, should accept similar obligations as States to act immediately to end situations of widespread poverty (as per para. 43), and that TNCs with huge resources that operate in many different countries should be expected to play a major part in these short-term and sustainable programmes.

210. It was noted by the **Independent Expert on human rights and extreme poverty** that while the DGPs seek to address the issue of accountability by creating an obligation on non-governmental organisations working in the field of poverty eradication to be placed under independent supervision and public scrutiny, it is difficult to understand which body of supervision the drafters were referring to. This also raises the issue of responsibility of intergovernmental and non-governmental organisations in international law.

211. The Government of **Belgium** noted that **independent supervision**, as called for in paragraph 46, should be sufficient as a check on the activities of organisations working to eradicate poverty, therefore the reference to “public scrutiny” could be considered superfluous.

212. The Independent Expert also remarked that the Guiding Principles are not the place in which issues on the professional conduct of development and humanitarian personnel working in this area can be successfully addressed. However, issues such as definition, formulation, prioritisation and implementation of policies and programmes for the eradication of poverty are of direct relevance to the DGPs. Language and

concepts developed within the Human Rights Based Approach to Development could be looked into for reflection in the Guiding Principles.

Paragraph 47:

213. **Care International** cautioned against the financing of social movements by the international community, as proposed in paragraph 47, since doing so could compromise the independence of social movements and thus undermine their willingness and ability to challenge problematic aspects of the international aid regime.

Seminar Session 8

3. VIEWS AND COMMENTS ON OTHER ISSUES NOT COVERED IN THE CURRENT DGPS

Marginalised and excluded groups:

214. A good number of respondents pointed out that the DGPs did not adequately reflect the relationship between **poverty and disability**, highlighting that the Guiding Principles must specifically address the rights of the people with disabilities. A particular focus is needed to ensure that poor people with disabilities are able to access programmes put in place to assist the poor and that they share in the benefits of social inclusion promoted by the Guiding Principles.

215. Many respondents felt the DGPs should more comprehensively address the question of the rights of **children living in poverty**. It was noted that the mortality of under fives remains one of the worst indicators of extreme poverty across the world.

216. The Government of **Belgium** noted that the draft Guiding Principles do not address the issue of ethnic-cultural **minorities**.

217. As noted earlier, the **Special Rapporteur on indigenous people** along with a large number of NGOs called for a far greater focus on the rights of **indigenous peoples**, including in relation to land rights.

218. **HelpAge International** and **Sightsavers International** proposed that the **impact of demographic ageing** be recognised in the Guiding Principles, in particular through the inclusion of a reference to the Madrid International Plan of Action on Ageing adopted by the Second World Assembly on Ageing on 12 April 2002.

219. As mentioned earlier with regard to paragraph 18, where appropriate a reference to **foreigners in regular or irregular situations** as being among vulnerable groups should be mentioned.

220. As mentioned earlier with regard to paragraph 18, the **NGO Committee for Social Development** suggested that the DGPs acknowledge that the inadequacy of policies for some groups of **migrants** effectively criminalises the poor and proposed that the Guiding Principles recognise that **economic refugees** should also have access to rights. The Government of **Mexico** noted that the DGPs do not refer to migrants, who are often in situations of poverty and lacking protection.

221. The **Representative of the Secretary-General on Human Rights of Internally Displaced Persons**, very much welcomes the initiative of drafting Guiding Principles on Extreme Poverty and Human Rights in light of the fact that **internally displaced persons** often belong to the poorest among the poor and thus are particularly exposed to instances of extreme poverty. As noted above, some respondents suggested emphasising the participation of certain marginalised groups, namely, **victims of leprosy, displaced persons** and **victims of armed conflicts**.

222. The consensus among respondents was that it was not enough merely to name the various vulnerable groups, nor to refer to the importance of ensuring their participation in, for example, decision-making processes as at paragraph 8. Rather, specific provisions should be included on the **particularities of the groups** mentioned when confronted with extreme poverty.

Other thematic issues:

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223. The **Special Rapporteur on Torture** drew attention to the **Guidelines and Principles on a Human Rights Approach to Poverty Reduction Strategies** drafted by Paul Hunt, Siddiq Osmani and himself (Manfred Nowak). He suggested that while some elements of the Guidelines and Principles have been included in the DGPs, there are a number of ways in which they could benefit from the work that has come before, for example on the issue of the identification of the poor, accountability and monitoring, as well as the relevant indicators. A similar observation was made by **Zdzislaw Kedzia**, Member of the Committee on Economic, Social and Cultural Rights, adding that the Guiding Principles should also benefit from the human rights analysis related to the implementation of the MDGs.

224. **Care International, COHRE** and the collective view of those that took part in the 2008 NGO consultation, emphasised the importance of including a **right to a clean and healthy environment** in the Guiding Principles, the latter two groups mentioning also the links to climate change.

225. **Care International** remarked that a good reason to focus on the right to a healthy environment is that **climate change** jeopardises the ability to respect, protect and fulfil the whole spectrum of indivisible and interdependent rights. As mentioned earlier, the section on the right to food addressed ownership of land and the right to exploit natural resources, yet as this respondent noted, the DGPs fail to take into account newly

emerging constraints on individual rights (and indeed the rights of States) in light of climate change imperatives and the range of environmental threats. Further, given the impact of climate change and mitigation and adaptation strategies, the Guiding Principles could usefully acknowledge the prior rights of the poor, including their right to development.

226. **COHRE** and the **Secretariat of the Pacific Community** remarked that while some attention is devoted to **land rights**, particularly in the sub-section on the right to food, there is need to devote a separate section in the Guiding Principles to this issue, in particular as regards the rights of indigenous peoples but also, in the latter's view, with regard to women.²⁷ Explicit reference should be made to ILO Convention 169, and in particular to the Declaration on the Rights of Indigenous Peoples. (See also the input by the Special Rapporteur on indigenous people with regard to paragraph 21). **Care International** suggested that **each right** be formulated in a **gender-sensitive** manner.

227. With regard to the sub-section on the right to food and specifically the issues of the right to ownership of land and the right to natural resource use on the land of indigenous peoples, the **former World Bank Special Representative** to the UN and the WTO remarked that the DGPs nowhere take into account the fact that in today's world, where the planet and many of its animal species and much of its **bio-diversity** are threatened, there are also laws which protect animal rights and the natural environment against hunters and fishermen – indigenous or not. The Guiding Principles need to be realistic in this respect, and recognise the pre-eminence of the general interest in certain contexts.

228. The Government of **Greece** suggested that whereas poverty and **social exclusion** are conditions that may lead one to the other, the addition of a specific and independent reference to social exclusion is useful, specifically to avoid situations of social exclusion. Two NGOs suggested that the Guiding Principles should include an overarching paragraph on the State's obligation to **collect data on poverty disaggregated by sex, age and presence of persons with disabilities**, as follows: "States should collect and analyse poverty data that shows household composition by age, sex, disability and socio-economic status."

229. **Kamal Siddiqui**, Member of the Committee on the Rights of the Child, advocated for the inclusion of a **right to credit**. He explained that access to credit on easy terms should constitute a basic right of the extremely poor. At the same time, the State should take appropriate measures to curb credit to the extremely poor with usurious interest rates and based on collateral.

²⁷ **The representative of the Secretariat of the Pacific Community** noted: "The disproportionate suffering by women of extreme poverty is often directly linked to their exclusion from ownership, control and access to land and other productive resources and discriminatory practices relating to credit and other facilities to support land acquisition, management and productive use. All efforts to eliminate extreme poverty should seek to identify and rectify any laws, customs, policies or practices which deny women their right to land, resources, credit and other related facilities on a basis of equality with men".

230. A large number of NGOs and academics emphasised the stark omission of the **right to social security**, with **David Gordon** also remarking on the absence of any reference to ILO Social Security (Minimum Standards) Convention, No 102. He also suggested that a section should be added to the Guiding Principles on the right to social security given its crucial importance in the fight against poverty.

231. **HelpAge International** and **Sightsavers International** suggested that references be included to the effect that States should provide regular and predictable income in the form of non-contributory **cash transfers** to poor persons unable to make regular payments into national insurance or contributory pension schemes that would guarantee them an adequate standard of living, and that States unable to make such payments on their own be required to seek the assistance of the international community, which would be required to provide such assistance. **Peter Townsend** suggested the inclusion of a reference along the lines that **transnational corporations** should share with States responsibility for social insurance contributions and taxes towards the establishment of **social insurance** and other social security benefits for those outside, as well as inside, the formal and informal labour markets. It was noted that there are a number of provisions in the DGPs that would really need to address elements of the right to social security.²⁸

232. As mentioned earlier, a number of respondents commented on the absence of any meaningful consideration of **structural factors** implicated in the production and reproduction of extreme poverty. **The Bahá'í International Community** described poverty as a symptom of a system of economic and social relationships that promote the advantage of the few at the expense of the many. The persistence of extreme poverty in the face of increasing and extreme wealth in parts of the world suggests that the problem must be addressed far more systemically and with regard to a greater range of actors than the DGPs have so far done. **Arne Tostensen** remarked that the fundamental flaw in the international human rights regime is that it is weak in addressing structural features that have a bearing on well-being. He suggested that while the international human rights regime has in significant ways been overtaken by events and can be said to have so far failed in addressing structural inequalities that would ensure poverty, the Guiding Principles should do everything possible to highlight and address these gaps. As **Camilo Pérez Bustillo** noted, the adoption of

²⁸ **Peter Townsend** provided the following background information: Public social security systems (excluding education and health) in the OECD countries cost an average of GDP 13.5% annually, and in low-income countries (including India) cost GDP 1.5%. The predominant part of social security is social insurance (formally included with social security in the International Covenant on Economic, Social and Cultural Rights and The Convention on the Rights of the Child). The right to “universal social security” does not form part of any staged plan by the international financial agencies to encourage States to raise the numbers of children, elderly, sick and disabled acquiring entitlement to social security in the low-income countries to levels which would dramatically reduce the scale of poverty in these countries. As measured by the member states of the European Union, poverty is reduced by an average of three-quarters by their social security systems. Therefore the development of social security systems in low-income countries will reduce poverty, as historically demonstrated in the OECD countries.

Guiding Principles are now potentially more critical and useful than ever as multidimensional, intertwined economic, financial, environmental, food, and energy crises deepen on a global scale –crises that further exacerbate longstanding structural patterns of poverty, inequality and exclusion.

233. It has been recommended generally that Guiding Principles should consider carefully what economic, social and cultural rights have been omitted, and a number of respondents highlighted the need for a greater focus in the Guiding Principles on the issue of **justiciability** of economic, social and cultural rights.

234. Civil society organisations from the South as drawn from the online consultation argued that the DGPs insufficiently reflect **contextual features**, such as, problems and effects of corruption, conflicts and their impact on discrimination, socio-cultural values and demoralisation and lack of confidence of people living in conflict-torn societies.

235. Some respondents from the online civil society consultation remain sceptical about the modalities of **enforcement** of the draft Guiding Principles. Dissatisfaction with the DGPs focused primarily on their future implementation and means of enforcement. Partnerships between different stakeholders and **specific timelines** and a framework were seen as essential.

236. Several respondents from the online civil society consultation criticised the lack of recommendations addressing the **implementation** of the DGPs, particularly concerning how to design multidisciplinary pro-poor strategies and how to involve people living in poverty in economic value chains.

237. Several respondents from the online civil society consultation recommended that civil society organisations be provided with adequate **resources** and **capacity building** to contribute to the effective implementation of the Guiding Principles. They stressed the need for training, exchanging best practices among partners, building capacity among staff, creating partnerships between Northern and Southern NGOs and between national, regional or local governments and local organisations. They felt that the DGPs inadequately emphasised the need for financial resources. Financial support, as much as technical and managerial support, is needed to mobilise resources and to identify the financial services to adapt to the needs of people living in poverty.

238. The **United Nations Department of Economic and Social Affairs** (DESA) suggested that the Guiding Principles could refer to the need for **policy space** at the national level for poverty reduction.

239. The **National Centre for Human Rights of Jordan** recommended including a paragraph that ties foreign occupation to the spread of poverty in the occupied territories.

LIST OF RESPONDENTS

Member States:

- Algeria	1 st consultation- 2007
- Argentina	1 st consultation
- Austria	2 nd consultation- 2008
- Belgium	1 st consultation
- Chile	2 nd consultation
- Colombia	1 st consultation
- Costa Rica	1 st consultation
- Croatia	1 st consultation
- Dominican Republic	1 st consultation
- Finland	2 nd consultation
- France	1 st consultation
- Georgia	1 st consultation
- Greece	2 nd consultation
- Iraq	1 st consultation
- Ireland	2 nd consultation
- Italy	1 st consultation
- Libyan Arab Jamahiriya	1 st consultation
- Mexico	2 nd consultation
- Morocco	2 nd consultation
- Philippines	1 st consultation
- Romania	1 st consultation
- Rwanda	1 st consultation
- Switzerland	1 st and 2 nd consultation
- Trinidad and Tobago	1 st consultation
- Yemen	1 st consultation

United Nations agencies and intergovernmental organisations:

- European Committee for Social Cohesion	2 nd consultation
- Food and Agriculture Organization (FAO)	1 st consultation
- United Nations Department of Economic and Social Affairs (DESA)	1 st consultation
- United Nations Development Programme (UNDP)	1 st consultation
- World Trade Organization (WTO)	2 nd consultation

United Nations treaty body experts:

- Kamal Siddiqui, member of the UN Committee on the Right of the Child	2 nd consultation
- Zdzislaw Kedzia, newly appointed member of the Committee on Economic Social and Cultural Rights	2 nd consultation

United Nations special procedures mandate-holders:

- Anand Grover, Special Rapporteur on the right to health 2nd consultation
- Arjun Sengupta, former Independent Expert on human rights and extreme poverty 1st consultation
- Asma Jahangir, Special Rapporteur on freedom of religion or belief 2nd consultation
- Catarina de Albuquerque, Special Rapporteur on the right to water 2nd consultation
- James Anaya, Special Rapporteur on indigenous peoples 2nd consultation
- Maria Magdalena Sepúlveda, Independent Expert on human rights and extreme poverty 2nd consultation
- Manfred Nowak, Special Rapporteur on torture 2nd consultation
- Walter Kälin, Special Representative of the Secretary General on the human rights of internally displaced persons 2nd consultation

National human rights institutions and other national bodies:

- Canadian Human Rights Commission 1st consultation
- Comité Supérieur des Droits de l'Homme et des Libertés Fondamentales Tunisien 2nd consultation
- Commission nationale consultative des droits de l'homme, France 2nd consultation
- Cour de cassation de France 2nd consultation
- Human Rights Commission of Malaysia 1st consultation
- National Center for Human Rights, Jordan 2nd consultation
- National Human Rights Commission of Mexico 1st consultation
- Office of the Ombudsman of Croatia 1st consultation
- Ukrainian Parliament Commissioner for Human Right 2nd consultation

Non-governmental organisations:

- Associazione ONG Italiane 1st consultation
- Bahá'í International Community 2nd consultation
- Care International 1st consultation
- Caritas Internationals 2nd consultation
- Centre Europe-Tiers Monde 1st consultation
- Centre on Housing Rights and Evictions (COHRE) 2nd consultation
- Comité Quart Monde Européen 1st consultation
- Equal Opportunities Commission 1st consultation
- Franciscan International 2nd consultation
- HelpAge International 1st consultation
- International Catholic Child Bureau 2nd consultation
- International Council of Women 2nd consultation
- International Federation of Social Workers 1st and 2nd consultation
- International Movement ATD Fourth World 1st and 2nd consultation
- Light for the World 1st consultation
- Lutheran World Federation 2nd consultation
- Marangopoulos Foundation for Human Rights 1st consultation
- Mouvement contre le Racisme et pour l'Amitié entre les Peuples 1st consultation
- NGO Committee for Social Development 1st consultation
- Pax Romana 2nd consultation
- Romania Avocatul Poporului 2nd consultation
- Sightsavers International 1st consultation
- Volontari nel mondo – FOCSIV 1st consultation
- World Alliance for Citizen Participation 2nd consultation

- World Organisation Against Torture 2nd consultation

Other relevant stakeholders:

- Arne Tostensen Dr., Chr. Michelsen Institute 2nd consultation
- Camilo Pérez Bustilo, Research Professor, Universidad Autónoma de la Ciudad de México 2nd consultation
- Christoph Golay, Graduate Institute of Development Studies 2nd consultation
- David Gordon Prof., Townsend Centre for International Poverty Research, University of Bristol 2nd consultation
- Edward Anderson Dr., Lecturer in development economics, University of East Anglia 2nd consultation
- Felix Kirchmeier, Program Officer, Friedrich-Ebert-Stiftung 2nd consultation
- Joseph K. Ingram, former World Bank Special Representative to the UN and the WTO 2nd consultation
- Paula Silva Robledo, Expert in housing and urbanism 2nd consultation
- Peter Townsend Prof., London School of Economics 2nd consultation
- Rajat Khosla, Human rights lawyer, former senior research officer to the UN Special Rapporteur on the right to health 2nd consultation
- Sarah Zaidi Sc.D, Expert in health and human rights 2nd consultation
- Treva Braun, Adviser on gender equality, Secretariat of the Pacific Community 2nd consultation
- Wouter Vandenhoe Prof., University of Antwerp 2nd consultation

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.]