

# Report of the United Nations High Commissioner for Human Rights on the Draft Guiding Principles on Extreme Poverty and Human Rights: The Rights of the Poor\*

## Introduction

1. In its resolution 2/2, the Human Rights Council took note of the draft guiding principles on extreme poverty and human rights: the rights of the poor (Sub-Commission for the Promotion and Protection of Human Rights resolution 2006/9, annex) and requested that the United Nations High Commissioner for Human Rights circulate the draft guiding principles, in order to obtain the views of States, relevant United Nations agencies, intergovernmental organizations, United Nations treaty bodies, special procedures including the independent expert on the question of human rights and extreme poverty, national human rights institutions, non-governmental organizations (NGOs), especially those in which people in situations of extreme poverty express their views, and other relevant stakeholders, and to report to the Council at its seventh session.

2. The present report summarizes the various views and comments in response to the above resolution. The report is structured as follows: (i) introduction; (ii) general views on the draft guiding principles; (iii) comments on the content of the draft guiding principles; (iv) ongoing activities in line with the draft guiding principles; and (v) suggested next steps. Contributions summarized in the third section are organized by chapter following the above-mentioned resolution.

3. In order to seek comments from civil society on the draft guiding principles, the United Nations Non-Governmental Liaison Service (UN-NGLS), in collaboration with NGO partners, conducted an online consultation from 20 August through 20 September 2007. The summary of the online consultation is attached as annex 1. In order to seek views of people living in poverty and extreme poverty and of NGOs working with them, the International Movement ATD Fourth World conducted consultations in Bangkok, Cusco (Peru), Dakar, Kielce (Poland), and Lille (France). A summary of the consultations is attached as annex 2.

## I. GENERAL VIEWS ON THE DRAFT GUIDING PRINCIPLES

4. A number of Governments and NGOs<sup>1</sup> expressed support for the draft guiding principles and indicated that the draft guiding principles

*\* The reason for the delayed submission of the report is due to collect as many contributions as possible from all stakeholders.*

<sup>1</sup> Governments of Algeria, Croatia, France, Rwanda and Trinidad and Tobago; Centre EuropeTiers Monde, Comité Quart Monde Européen, Marangopoulos Foundation for Human Rights, NGO Committee for Social Development; University of Padova. Human Rights Centre of the University of Padova, Associazione ONG Italiane, Marangopoulos Foundation for Human Rights and Volontari nel Mondo - FOCSIV.

represent an appropriate framework for shaping measures and activities in order to eradicate extreme poverty across the world. They viewed the draft guiding principles as an important step in the process of incorporating extreme poverty into the international system of human rights, since the draft guiding principles outline legal provisions to sanction offenders against the human rights of poverty-stricken people and their families.

5. The *independent expert on human rights and extreme poverty* stated that the establishment of specific guidelines is a great step towards bringing the multifaceted problems faced by those suffering from extreme poverty into the mainstream and will help us develop a suitable programme for implementation, once social consensus can be reached. He also emphasized that applying a human rights analysis to extreme poverty will help duty-bearers to perform their obligations and ensures that they have «binding obligations» and that noncompliance with their duties constitutes a violation of the human rights, for which they can thus be held accountable.

6. The Government of *Argentina* expressed its support for the human rights-based approach to the eradication of extreme poverty, and that «basic rights» are a matter of justice not charity. It further stated that extreme poverty is a violation of basic rights and a leading factor in aggravating discrimination.

7. The Government of *Switzerland* expressed its concern that the draft guiding principles might not conform closely enough to the current state of international law and human rights and should thus be drafted in a language that guides and aids States. It further suggested that wordings and expressions should not be used which would give the impression that the draft guiding principles created obligations for States and, in an impermissible way, required specific actions on the part of States.

8. The *United Nations Department of Economic and Social Affairs (DESA)* suggested that the draft guiding principles could more clearly spell out the principles to address the rights of the poor, and that the language could be more precise and consistent with existing human rights language (e.g., in the use of the term «right to employment»). It further suggested that the draft guiding principles could refer to the need for policy space at the national level for poverty reduction, and expressed concern that major governmental and non-governmental actors in the fields of development and poverty reduction were not yet sufficiently aware of the draft guiding principles.

9. The *South African Human Rights Commission and Sightsavers International* pointed out that the draft guiding principles did not yet adequately reflect the relationship between poverty and disability, while the *Equal Opportunity Commission* suggested that the draft guiding principles specifically address the rights of the people with disabilities. It was proposed that draft guiding principles acknowledge that 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 draft guiding principles.

10. The *South African Human Rights Commission* further proposed that the draft guiding principles should address the question of children living in poverty.

11. *HelpAge International and Sightsavers International* proposed that the impact of demographic ageing be recognized in the draft 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.

12. *Care International* proposed the inclusion of a right to a clean and healthy environment in the draft guiding principles, arguing that climate change jeopardizes the ability to respect, protect and fulfil the whole spectrum of indivisible and interdependent rights. It further suggested that each right be formulated in a gender-sensitive manner and consider the effects of corruption.

13. The *South African Human Rights Commission* expressed concern that the inclusion in the draft guiding principles of criminal penalties for negligence would deter people from acting to ensure the progressive realization 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 draft guiding principles.

## **II. COMMENTS ON THE CONTENT OF THE DRAFT GUIDING PRINCIPLES**

### **Preamble**

14. The Government of *Argentina* expressed the view that extreme poverty might be more than just a human condition; it could be the result of socio-historic transformation by means of political action. In spite of the influence of intergovernmental organizations, national and transnational enterprises and non-governmental organizations, only the State or armed groups acting under State consent could be considered as violators of human rights by action or omission.

15. The Government of *Costa Rica* considered that the definition of poverty in paragraph 1 excludes the concept of «circumstantial poverty», which is neither continuous nor chronic but temporal and acute. The current definition could only be used if circumstantial poverty were to be definitely excluded from the scope of action of the rights laid out in the draft guiding principles. It was also pointed out that the concepts of extreme and basic poverty as well as social exclusion used in the draft guiding principles were not defined in the text.

16. The Government of *Italy* suggested emphasizing the linkage between human rights, human development and human security, a view shared by several NGOs<sup>2</sup>. In particular, the close relationship between disarmament and development, as laid out in the United Nations Declaration on the Right to Development, was highlighted.

17. The Government of the *Philippines* suggested that the phrasing of the paragraph recognizing that «eradication of extreme poverty constitutes a major challenge in the process of globalization» be modified to call not only for decisive action for the eradication of extreme poverty on the national but also on the subnational levels. The Government also indicated that the current definition of poverty does not recognize 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.

18. The *independent expert on the question of 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. The former Sub-Commission for the Protection and Promotion of Human Rights recognized that extreme poverty includes the lack of basic security, capability deprivation, and social exclusion. Thus, extreme poverty could be defined as «a composite of income poverty, human development poverty and social exclusion»<sup>3</sup>. Such a definition would facilitate the development of a social consensus, and the reports of the independent expert elaborate on this further. On this basis, both 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.

19. *DESA* indicated that the distinction between the notion of extreme poverty and the generally accepted notion of poverty may need to be more clearly set out in the draft guiding principles. In this context, it could be useful to include specific references to existing human rights instruments, beyond the one generic reference to the International Covenant on Economic, Social and Cultural Rights. This sentiment was echoed by *HelpAge International and Sightsavers International*, which suggested that the principles enshrined in the Convention on the Rights of Persons with Disabilities be recognized in the draft guiding principles.

20. The *South African Human Rights Commission* suggested that the draft guiding principles acknowledge States' responsibility to combat the extreme isolation of the rural poor.

21. The *International Federation of Social Workers* considered the language of paragraph 6 to be somewhat strong and difficult to implement.

22. *Care International* suggested substituting the notion of «the poor»

<sup>2</sup> E/CN.4/2005/49, par. 18.

<sup>3</sup> Human Rights Centre of the University of Padova, Volontari nel Mondo and Associazione ONG Italiane.

Report of the UN High Commissioner for Human Rights on the Draft Guiding Principles with that of poor men and women, to emphasize the diversity of people living in poverty.

## **Section 1**

### **A. Participation by the poor**

23. The Government of *Belgium* noted that the draft guiding principles do not address the issue of ethnic-cultural minorities.

24. The Government of *Costa Rica* suggested that it is necessary to add in paragraph 8 references to other population groups who are at risk of being excluded, such as elderly persons, persons with disabilities, and indigenous groups. The draft guiding principles should consider including in paragraph 10 concepts such as «auto-discrimination», or discrimination of some groups living in poverty against others in the same situation.

25. The Government of *Georgia* proposed that the participation of people living in extreme poverty in programmes for the eradication of extreme poverty be voluntary. Therefore, the second sentence in paragraph 7 should be omitted.

26. The Government of *Switzerland* proposed delaying the integration of standards on transnational enterprises (par. 6) into the draft guiding principles until the report of the Special Representative of the Secretary-General on the issue of human rights, transnational corporations and other business enterprises had been presented. Also, the draft 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.

27. The *International Federation of Social Workers* commented that participation of the poor in «activities which concern them» is not only an example of the universal right to participation in public affairs but also a demonstration of respect for persons, families, groups and communities living in poverty.

28. *Care International* pointed out that participation as laid out in section 1 involves costs, particularly for the extreme poor. It also called for the inclusion of a text stating that civil society should be given the opportunity to represent the voice of the most marginalized and vulnerable people living in extreme poverty. Furthermore, it recommended making explicit mention of indigenous and tribal peoples, given their rights to participate and decide their own priorities for the process of development, as outlined in ILO Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries. In paragraph 9, it recommended that the draft guiding principles address women's economic security, eliminating violence against women and achieving gender equality in democratic governance.

29. *HelpAge International* and *Sightsavers International* proposed that

the draft guiding principles should call on States to promote the participation of poor disabled persons and poor older persons in decision-making processes.

30. *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...».

## **B. Discrimination and stigmatization**

31. 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 stigmatization processes.

32. 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 discrimination into education or instituting/strengthening systems of monitoring and accountability for media pertaining to these issues.

33. The Government of *Switzerland* noted that if discrimination of the poorest has impact on human rights, discrimination is also one of the major causes of extreme poverty.

34. The *International Federation of Social Workers* suggested that the draft guiding principles stress that certain outward appearance or certain types of behaviour, including theft, aggression or other forms of violence, do not exclusively characterize the poor or extremely poor.

35. 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» (par. 11), the draft guiding principles do not identify the entity responsible for punishing those who discriminate. The only obligation that paragraph 11 explicitly puts on States is to «criticize and combat stigmatization 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.

36. The *Mouvement contre le Racisme et pour l'Amitié entre les Peuples* stated that the draft guiding principles should call for (or at least make reference to) the establishment of a claims mechanism on the international level by which a State – as a legal or natural person – is able to seek legal recourse in order to assert its rights or obtain reparations.

37. *Care International* suggested that paragraph 12 should also 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.

38. The *Equal Opportunity Commission* suggested that stigmatization

based on social and income status should specifically be denounced.

39. *HelpAge International and Sightsavers International* suggested specifically naming in section 1 certain vulnerable groups deserving special measures.

## **Section 2**

### **C. Indivisibility and interdependence of rights**

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

41. The *Human Rights Centre of the University of Padova, Volontari nel Mondo - FOCSIV* and the *Associazione ONG Italiane* suggested 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.

42. *Light for the World* suggested adding in paragraph 14 a reference that all human rights are «interrelated», as spelled out in the Vienna Declaration and Programme of Action.

### **D. Civil and political rights**

43. The Government of *Belgium* considered that paragraph 16 could be fleshed out in more detail to better address the right described therein, and suggested including in paragraph 18 a reference to foreigners in regular or irregular situations as being among vulnerable groups.

44. 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. Thus it was suggested that a different means of expressing the idea that they are homeless be found. In the Spanish version of the draft guiding principles, the term «old people» (*ancianos*) should not be used; it should be replaced by «elderly people» (*personas adultas mayores*).

45. Due to the high percentage of undocumented persons throughout the world, the *International Federation of Social Workers* proposed that the second sentence of paragraph 15 recognize 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.

46. The *NGO Committee for Social Development* suggested that the draft guiding principles acknowledge that the inadequacy of policies for some groups of migrants effectively criminalizes the poor and proposed that the draft guiding principles recognize that economic refugees should also have access to rights. The Committee called for

the recognition of the land rights of various indigenous peoples. It also suggested that the draft guiding principles recognize States as violators of civil and political rights when they fail to protect and act in a corrupt system.

47. *Light for the World* suggested stressing in paragraph 15 the importance of effective participation of persons living in extreme poverty.

48. *Care International* considered the drawing up of education programmes, as proposed in paragraph 17, to be 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.

49. *Light for the World* and *Care International* proposed expanding 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. *Light for the World* suggested that the phrase «subjects of law» be removed from paragraph 19.

50. *HelpAge International* and *Sightsavers International* suggested adding distinct guidelines on the right to identity as well as on the right to social security. 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. They suggested the draft guiding principles require States to 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 proposed that States unable to make such payments on their own be required to seek the assistance of the international community, which would be obligated to provide such assistance.

## **E. Right to food**

51. 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 basic food supply». 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 «Afrodescendants».

52. The *United Nations Food and Agriculture Organization (FAO)* 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 the FAO Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security. The formulation suggested was 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 realize the physical and economic access to adequate food for all».

53. *FAO* 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»).

54. *FAO* requested clarification of the phrases «organized 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 organized in ways that respect human dignity and ensure the fullest possible participation by the population groups concerned».

55. *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» in light of the principle of proportionality. It was 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» by «expired».

56. The *South African Human Rights Commission* and *Volontari nel Mondo* drew attention to the special situation of women and girls and proposed adding a text recognizing this situation. 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 draft 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.

57. The *NGO Committee for Social Development* pointed out the absence of any reference in the draft guiding principles to international responsibility in times of natural disasters such as drought or tsunami.

58. *Volontari nel Mondo* recommended that participation in food assistance arrangements by population groups concerned, as set out in paragraph 22, be organized in such a way as to avoid dependence and respect biodiversity.

59. *Care International* suggested that a text be added to paragraph 20

requiring States to immediately tackle hunger and to desist from starving people under their control, including prisoners and asylum-seekers. It also suggested that the draft guiding principles recognize gender-specific aspects of the right to food, such as basic needs during pregnancy.

60. *HelpAge International and Sightsavers International* recommended including the prevention of discriminatory distribution of food in humanitarian responses.

## **F. Right to health**

61. The Government of *Belgium* noted that the last sentence of paragraph 26 was not sufficiently precise to capture the full complexity of international assistance.

62. The Government of *Colombia* suggested noting in paragraph 24 that persons living in extreme poverty should have priority in all health services.

63. The Government of the *Philippines* expressed 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.

64. The *International Federation of Social Workers* proposed that the absence of health services in many remote areas of the world be noted in paragraphs 24-27. Furthermore it expressed the view that paragraph 27 was difficult to implement.

65. The *South African Human Rights Commission* suggested that Part F include explicit provisions for the protection of the right to reproductive health for women living in extreme poverty.

66. The *Equal Opportunity Commission* recommended highlighting the issue of trading in human organs and the exploitation of people living in extreme poverty in this trade.

67. *Care International* suggested that the notion of highest attainable standard of physical and mental health be addressed in the draft guiding principles.

68. *HelpAge International and Sightsavers International* suggested adding «mental and chronic illnesses» to the existing list of diseases in paragraph 26.

## **G. Right to drinking water**

69. The Government of *Belgium* suggested revising paragraphs 29 and 30 to better address the complex issue of the right to drinking water.

70. The Government of *Colombia* stated 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. To reflect the relationship between the obligations of the State and the population, the Government of *Colombia* suggested rephrasing the first sentence of paragraph 29 as follows: «People living in extreme poverty have the right to drinking water, and the State has the obligation to guarantee their access to this service».

71. The Government of *Georgia* and the Government of 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.

72. The Government of *Italy* proposed taking into account the recent report of the High Commissioner 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), which states that people living in extreme poverty should have the right not only to drinking water but, more comprehensively, a right to access to 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». Expanding Part G to include a right to sanitation was also supported by the *South African Human Rights Commission*.

73. The Government of *Italy* also emphasized the importance of the right to drinking water as a self-standing human right, as recognized in general comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights. Consequently, the draft guiding principles should underline the character of drinking water as a global public good, as is also called for by several NGOs<sup>4</sup>, and stress not only the interdependence between the right to water and the right to life, but as well its close relation to other rights such as the right to housing, the right to health and the right to food.

74. The Government of *Italy* recommended that a gender equality approach be taken into account as regards the access to safe drinking water and sanitation.

75. The Government of the *Philippines* 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*.

76. The *South African Human Rights Commission* recommended that the equitable distribution of water be addressed in the draft guiding principles.

<sup>4</sup> France, Italy, Rwanda, Trinidad and Tobago; Comité Quart Monde Européen, Associazione ONG Italiane, NGO Committee for Social Development, Marangopoulos Foundation for Human Rights, Care International, University of Padua.

77. *Care International* suggested that children be explicitly mentioned, as they constitute the vast majority of those dying from dehydration and contaminated water.

78. *HelpAge International and Sightsavers International* suggested including accessibility of water resources for older and disabled people.

79. The *NGO Committee for Social Development* noted that broader environmental rights are not fully highlighted. The Committee also indicated that no special mention is made of the commoditization of water and contamination of natural resources due to actions of private enterprises and States.

## **H. Right to housing**

80. 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.

81. The Government of *Georgia* noted 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. The present wording of the paragraph would encourage the poor to take for granted the provision of housing and could not be practically implemented in countries with a weak or transition economy.

82. The Government of the *Philippines* suggested that the right to housing be construed in the context of security of tenure instead of ownership.

83. The *International Federation of Social Workers* suggested taking out the word «dignified» in the first sentence of paragraph 31, or finding a different wording 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.

84. The *South African Human Rights Commission* suggested that paragraph 32 of the draft guiding principles pay particular attention to gender-based mistreatment.

85. *Care International* suggested that the draft guiding principles should 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, and recommended using the word «priority» instead of «emphasis» in paragraph 33.

## **I. Right to education and culture**

86. The Government of *Belgium* noted that the draft guiding principles

do not have specific provisions addressing «youth» and «sport» as important building blocks for facilitating the integration and participation of the poor.

87. 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 United Nations Development Programme (UNDP) *Human Development Report*. The *Human Development Report 2004* contextualized 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 recognize values, institutions, and ways of life of cultural groups and discrimination and disadvantage based on cultural identity» (*HDR 2004*, p. 27).

88. 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.

89. The *Equal Opportunity Commission* suggested that the draft 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.

## **J. Right to employment**

90. The Government of *Belgium* noted that paragraphs 36 and 38 contain provisions that are not achievable in the short term.

91. 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.

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

93. *Care International* suggested expanding paragraph 38 to include social security.

94. *Care International* also recommended that the draft guiding principles focus on the duty to protect all children against harmful work rather than to seek a blanket ban on all child labour.

95. The *Equal Opportunity Commission* suggested that the draft guiding principles stress the importance of the removal of physical barriers for people with disabilities, as a major hindrance faced by such people in seeking employment.

96. *HelpAge International and Sightsavers International* and the *South African Human Rights Commission* 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.

## **K. Right to justice**

97. 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.

98. 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.

99. The *NGO Committee for Social Development* noted that there is no mention of torture, corruption and extreme measures by Governments in the draft guiding principles.

100. *Care International* stated that the concept of the «right to justice» should place as much emphasis on the ability of marginalized persons to enforce rights as it does on their need to defend themselves when they stand accused.

## **Section 3**

### **L. State obligations and international cooperation**

101. The Government of *Belgium* recommended that paragraphs 42 to 44 be revised to better reflect existing norms, such as the principles established by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD/DAC) regarding international cooperation.

102. The Government of *France* stated that the first responsibility to respect human rights resides with States.

103. The *independent expert on extreme poverty and human rights* noted that the importance of existing human rights norms and standards has been affirmed by the former SubCommission for the Protection and Promotion of Human Rights in the context of the fight against extreme poverty; however, the binding character of the obligations associated with those rights under international treaties needs to be spelled out in the draft guiding principles. States and the

international community should work towards the fulfilment of rights, even to the extent that rights require only «progressive realization», with the constraint that no right should be violated in this process. The enforcement of these obligations may be possible through several processes, 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.

104. The *South African Human Rights Commission* suggested that the draft guiding principles recognize 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.

105. The *Mouvement contre le Racisme et pour l'Amitié entre les Peuples* suggested that the draft guiding principles should call on States more clearly and firmly to seek coherence in the implementation of national economic, social and trade policies as well as between international commitments of a bilateral and multilateral nature.

106. *Volontari nel Mondo* suggested that the draft guiding principles include provisions banning the use of predatory pricing policies («dumping») against developing countries.

107. *Care International* suggested including text describing the duty of States to provide social security and protection for the poor and destitute to the maximum of their available resources.

108. The *Marangopoulos Foundation for Human Rights* drew attention to the 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. It recommended that the draft 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.

109. *Care International* suggested paying special attention in paragraph 43 to 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.

110. *Light for the World* suggested that non-discrimination in international cooperation be required by the draft guiding principles, with special attention being paid to marginalized or vulnerable groups including women, children, persons with disabilities and the elderly.

111. *HelpAge International and Sightsavers International* suggested including 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».

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

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

113. The Government of the *Philippines* suggested that types of public and private bodies addressed in paragraph 45 should be enumerated in greater detail, including the private sector and corporate foundations.

114. *Volontari nel Mondo* suggested that transnational corporations and other business enterprises be specifically mentioned as having a responsibility to act in respect of the international human rights system and the draft guiding principles.

115. The *Marangopoulos Foundation for Human Rights* proposed that specialized international institutions and organizations of the United Nations system be given separate consideration in the draft guiding principles. The World Bank and the International Monetary Fund, above all, should cooperate closely with organizations with specialized mandates – including UNDP, FAO, the Office of the High Commissioner for Human Rights and the World Health Organization – to deal with different aspects of the issue of extreme poverty.

116. *Care International* expressed concern that simply having organizations account for their activities may not be a sufficient means to ensure accountability and that these organizations should be required additionally to make publicly available evaluations of their work. It 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.

### **III. ONGOING ACTIVITIES IN LINE WITH THE DRAFT GUIDING PRINCIPLES**

117. Many respondents reported on relevant activities implemented at the national and international levels that are in line with the draft guiding principles. *Algeria* has adopted a number of important legislative texts and regulations on national solidarity and fighting poverty. *Croatia*, the *Dominican Republic*, *Iraq*, *Libyan Arab Jamahiriya*, *Romania*, *Rwanda*, *Trinidad and Tobago* and *Yemen* have adopted an integrated, multisectoral and participatory approach as recognized in the draft guiding principles. *Trinidad and Tobago* has mechanisms in place to oversee the implementation of central government decisions in terms of social programmes. In *France*, there is a law on the fight against exclusion, and on the International Day for



Report of the UN High Commissioner for Human Rights on the Draft Guiding Principles the Eradication of Poverty (17 October), the President of France announced that fighting poverty would be considered a national priority. At the regional level, the *European Union* has adopted the European Social Charter, with a focus on the right to protection against poverty and social exclusion, and launched the Lisbon Agenda with the objective of facilitating the eradication of poverty by 2010.

#### **IV. SUGGESTED NEXT STEPS**

118. A number of Governments and NGOs suggested that the draft guiding principles could be used as a stimulus and guide for implementing further policies and in assisting bodies monitoring the delivery of social services. They also expressed hope that the Human Rights Council and the General Assembly would adopt the draft guiding principles as soon as possible and proposed calling for a declaration on extreme poverty and human rights. The Government of *France* specifically recommended that the Human Rights Council establish a working group to examine in greater detail the content of the draft guiding principles.

#### **Annex 1 RESULTS OF THE ONLINE CIVIL SOCIETY CONSULTATION ON THE DRAFT GUIDING PRINCIPLES**

##### **Strengths**

Overall, respondents welcomed the draft guiding principles, expressing their appreciation that the following issues were highlighted: the need for respect and dignity of the poor; the need for a human rights-based approach; the necessity for the poor to have access to self-help and to participate in poverty eradication efforts; the linkages between poverty, discrimination and stigmatization; the importance of national and international plans or measures to eliminate extreme poverty and exclusion; the fact that extreme poverty exists in all countries across the world; and the impact of poverty on the implementation and the exercise of all categories of human rights.

##### **Weaknesses**

Dissatisfaction with the draft guiding principles focused primarily on their future implementation and means of enforcement. Several respondents considered that the responsibility of public and private actors should be made compulsory rather than voluntary. Individual and collective action, partnerships between different stakeholders and specific timelines and framework were seen as essential. Some respondents pointed out the need for NGOs to be trusted by other development actors and to be responsible for monitoring Governments'

reports on the implementation of the draft guiding principles.

Several respondents noted that civil society organizations should be provided with adequate resources and capacity-building to assume these rights and responsibilities. Respondents stressed the need for training; various solutions were suggested, including exchanging best practices among partners; building capacity among training and teaching staff; and working with civil society, creating partnerships between Northern and Southern NGOs or between national, regional or local governments and local organizations.

Some respondents stated that the draft guiding principles inadequately emphasized the need for financial resources. Financial support, as much as technical and managerial support, is needed to mobilize resources and to identify the financial services adapted to the needs of people living in poverty.

Some respondents suggested emphasizing the participation of certain marginalized groups (women, children, indigenous people, victims of leprosy, migrants and displaced persons, victims of armed conflicts and persons with disabilities).

Regarding the language, some respondents questioned the definitions of poverty, marginalized groups and other specific terms used in the draft guiding principles.

Finally, civil society organizations from the South argued that the draft guiding principles insufficiently reflected contextual features (problems of corruption, conflicts and their impact on discrimination, socio-cultural values, demoralization and lacking confidence of people living in conflict-torn societies).

### **Missing elements**

Several respondents criticized the lack of recommendations addressing the implementation of the draft guiding principles, particularly concerning how to design multidisciplinary pro-poor strategies and how to involve people living in poverty in economic value chains. Recommendations to publish the text in every country and language are also missing in the draft guiding principles.

Some noted the lack of reference to the larger macroeconomic context, such as the negative impacts of trade liberalization on poverty levels in developing countries.

Specific principles, terms, definitions and references to existing legal texts were missing according to some respondents.

### **Impact of the implementation of the draft guiding principles on respondents' work**

Many respondents believed that understanding the causes and consequences of poverty – if reflected in legislation – will allow people living in poverty to determine their own priorities. Most also agreed that the draft guiding principles will strengthen local organizations' capacities to facilitate this engagement if they are provided training

and rights-based education programmes.

The majority agreed that the draft guiding principles would benefit the community at large (not only persons living in poverty) and especially marginalized groups (women, indigenous peoples, migrants, orphans, children, etc.).

Implementing the draft guiding principles will enable most respondents to work more closely to people experiencing poverty and undertake new activities such as explaining and disseminating the principles to decision makers and people living in poverty.

Most respondents see in the implementation of the draft guiding principles the birth of a new advocacy tool for the achievement of the Millennium Development Goals and Poverty Reduction Strategy Papers, based on a new common legal framework. This framework will help harmonize actions and partnerships on the ground and build foundations for efficient multistakeholder dialogues.

However, some respondents remain sceptical about the modalities of enforcement of the draft guiding principles. Some suggested that monitoring implementation of the principles may be one of the key roles of civil society.

## **Annex II**

### **CONSULTATIONS WITH PEOPLE LIVING IN EXTREME POVERTY ON THE DRAFT GUIDING PRINCIPLES**

The consultations organized by the International Movement ATD Fourth World with regard to the draft guiding principles, which took place in France, Peru, Poland, Senegal and Thailand, enabled individuals from very different social and professional backgrounds to meet in order to better understand how the most disadvantaged cope with extreme poverty and to evaluate the draft guiding principles.

The request by the Human Rights Council that the opinions of individuals living in poverty and extreme poverty be solicited is a very interesting and innovative initiative, leading to a better understanding of how to create the conditions needed to more fully take into account the efforts, experiences and thinking of excluded persons and populations in the elaboration of international texts.

The exchanges brought to light the following points:

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.

The participants in the consultations and the persons who sent comments placed a special emphasis on the right to possess official citizenship documents, 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. The participants asked that the right to live as a family receive a stronger emphasis in the draft guiding principles. 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 draft guiding principles. They asked that schools, beginning at the primary level, teach solidarity and respect, building on the country's moral values.

There were high expectations that public authorities would work for the elimination of corruption in order to ensure that aid actually reaches those most in need, rather than those relatively better off. The participants also asked that the laws be enforced concerning the right to work, and the protection of children from human trafficking. They were concerned about the elimination of child labour, unless it is accomplished within the context of an overall policy to raise families' incomes. They also said that the dissemination of information regarding rights and access to justice needed to be improved. Women also asked to be more involved in decisionmaking and in anti-poverty programmes. The participants declared that they wanted to be recognized by authorities and that programmes and policies should be developed with their participation. They reiterated that those in positions of responsibility with respect to people in poverty need to meet and talk with them, 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. All of the consultations showed that the draft guiding principles reflected the experiences, hopes, and thirst for dignity of individuals living in extreme poverty. The determination was constantly affirmed that no one be forgotten, left aside, or discriminated against due to social exclusion.

### **Annex III**

#### **LIST OF RESPONDENTS**

##### **Governments**

Algeria  
Argentina  
Belgium  
Colombia  
Costa Rica  
Croatia  
Dominican Republic  
Georgia  
France  
Iraq  
Italy

Libyan Arab Jamahiriya  
Philippines  
Romania  
Rwanda  
Switzerland  
Trinidad and Tobago  
Yemen

**United Nations agencies and intergovernmental organizations**

Food and Agriculture Organization (FAO)  
United Nations Department of Economic and Social Affairs (DESA)  
World Trade Organization (WTO)

**United Nations special procedures mandate holders**

Dr. Arjun Sengupta, independent expert on human rights and extreme poverty

**National human rights institutions**

Canadian Human Rights Commission  
Office of the Ombudsman of Croatia  
Human Rights Commission of Malaysia  
National Human Rights Commission of Mexico  
South African Human Rights Commission

**Civil society organizations**

Associazione ONG Italiane  
Care International  
Centre Europe-Tiers Monde  
Comité Quart Monde Européen  
Equal Opportunities Commission  
HelpAge International and Sightsavers International  
International Federation of Social Workers  
International Movement ATD Fourth World  
Light for the World  
Marangopoulos Foundation for Human Rights  
Mouvement contre le Racisme et pour l'Amitié entre les Peuples  
NGO Committee for Social Development  
Volontari nel Mondo - FOCSIV  
Interdepartmental Centre on Human Rights and the Rights of Peoples -  
University of Padua

