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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Implementation of existing human rights norms and standards
in the context of the fight against extreme poverty****

**Progress report submitted by José Bengoa, coordinator
of the ad hoc group of experts***

* The annex is circulated in the language of submission only.

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Summary

The present report was prepared pursuant to resolution 2003/13 of the Sub-Commission on the Promotion and Protection of Human Rights, which requested the ad hoc group of experts coordinated by José Bengoa to submit a joint working paper on 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. The working paper is to be submitted in three stages: a preliminary paper, which was presented at the fifty-fifth session of the Sub-Commission (E/CN.4/Sub.2/2003/7), an interim stage (fifty-sixth session) and a final stage (fifty-seventh session). The present document is a progress report, corresponding to the interim stage of the process.

Based on previous work undertaken by the ad hoc group of experts, on discussions held by members of the Sub-Commission, including three members of the ad hoc group, in Pune, India, in late January 2004, and on consultations with a variety of counterparts, general agreement was found on the need to draft a text on human rights and extreme poverty. Thus, it appeared to be time to explore elements which might be incorporated into such a document. At the Pune meeting, a number of basic principles as well as themes and issues relevant to the preparation of such a document were considered and a methodology based on consultations was proposed. The report presents a summary of those discussions along with conclusions and recommendations.

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Introduction

1. In establishing the mandate on human rights and extreme poverty, the Commission on Human Rights, in resolution 1998/25, requested the independent expert to make suggestions to the Commission on Human Rights ... on the main points of a possible draft declaration on human rights and extreme poverty so that the Commission can consider the possibility of initiating at the fifty-first session of the Sub-Commission ... the drafting by that body of a text for examination by the Commission and possible adoption by the General Assembly, and to take into account ... *inter alia*, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Vienna Declaration and Programme of Action, the Copenhagen Declaration and Programme of Action ... and the Agenda for Development and the final report of the Special Rapporteur, Mr. Leandro Despouy (E/CN.4/Sub.2/1996/13).
2. In its resolution 2001/31, the Commission requested the Sub-Commission to consider the need to develop, on the basis of the various existing international texts, guiding principles of human rights norms and standards in the context of the fight against extreme poverty. Consequently, the Sub-Commission, in resolution 2001/8, requested four of its members¹ to prepare a joint working paper on this subject, and further requested them to present conclusions and recommendations in order to contribute to work in a draft declaration on extreme poverty and human rights. The working group submitted a programme of work (E/CN.4/Sub.2/2002/15) to the Sub-Commission at its fifty-fourth session.
3. At that session, the Sub-Commission adopted resolution 2002/13 in which it requested five of its members² to prepare a joint working paper in three stages. The preliminary working paper, containing a conceptual framework for the elaboration of guiding principles, was submitted to the Sub-Commission at its fifty-fifth session (E/CN.4/Sub.2/2003/17). In resolution 2003/13, the Sub-Commission approved the underlying principles of the conceptual framework.
4. The progress report constituted the second stage of the three-stage process.
5. Six members of the Sub-Commission,³ including three members of the expert group, took part in the International Experts Meeting on Women and Justice which was held in Pune, India from 26 to 30 January 2004. The meeting was sponsored by the Asian Women's Fund and hosted by the Nav Maharashtra Community Foundation in Pune with the participation of experts from India and Asia, women living in poverty and those accompanying them. The agenda included an item on the need to develop guiding principles on human rights and extreme poverty within the framework of the expert group's mandate. The meeting considered a number of specific aspects of human rights and poverty which are described below in section III. Detailed information on the meeting in Pune can be found in the annex to this report.
6. In considering the need for guiding principles on human rights and extreme poverty, the members carefully examined the terms of their mandate, as formulated by the Sub-Commission, (see sect. III. C. below) together with the outcomes of various meetings held and reports issued

on the subject since 1998. Particular attention was given to three events organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR): the 1999 Workshop on Human Rights and Extreme Poverty (E/CN.4/2000/52/Add.1), the 2000 Special Dialogue on Poverty and the Enjoyment of Human Rights (HR/GVA/POVERTY/SEM/2001/3), and the 2001 Expert Seminar on Human Rights and Extreme Poverty (E/CN.4/2001/54/Add.1 and Corr.1), including the series of background papers presented to the latter seminar. In addition, the report of the 1994 Seminar on Extreme Poverty and the Denial of Human Rights, organized by the then United Nations Centre for Human Rights (E/CN.4/1995/101), and the work of the Special Rapporteur and the independent expert on human rights and extreme poverty were considered, along with the statement on poverty by the Committee on Economic, Social and Cultural Rights (E/C.12/2001/10). The OHCHR Draft Guidelines on a Human Rights Approach to Poverty Reduction were considered as the most recent and developed conceptual work on human rights and poverty. The conceptual framework contained in the Draft Guidelines actually constituted the main reference for the preliminary working paper of the group of experts.

7. The need to draft guiding principles relative to human rights and extreme poverty was recognized (see, e.g. E/CN.4/2001/54/Add.1, para. 30) and the experts considered that the time had come to study elements that might be incorporated into such a document.

8. At the Pune meeting, the experts noted the Sub-Commission's call for wide-ranging consultations on the issue of the need for possible guiding principles and recommended an initial consultation process involving the United Nations system, international organizations, non-governmental organizations, people living in poverty and experts. The experts asked the Secretariat to facilitate the consultation process by providing support to them in the preparation of initial discussion elements for a possible text. The group recognized that the consultation process as envisaged by the Sub-Commission would require considerable time over the coming year and beyond.

I. THE CHALLENGE OF POVERTY ERADICATION

9. "Poverty is the challenge of our age", reads the web page of the eleventh United Nations Conference on Trade and Development (www.unctadxi.org). Over the last decade, the urgent need to alleviate poverty and tackle related scourges has become a top priority on the international agenda and the object of a series of commitments, reaching a peak in the Millennium Development Goals which aim in the long term at eradicating extreme poverty. The objective seems quite inconceivable when considering the cruel numbers of those living in misery. As stressed by the Secretary-General:

"approximately 1.2 billion people struggle to survive on less than a dollar a day. An estimated 840 million suffer the gnawing pain of hunger, and as many as 24,000 people, many of them children, die every day as a result. People who are hungry are more susceptible to disease, and find their capacity to work diminished as well. Hunger also impairs children's ability to learn, with consequences that are felt long after childhood is over. There is no time to lose if we are to reach the Millennium Development Goal - agreed by all the world's countries - of halving by 2015 the proportion of people who live

on less than a dollar a day and the proportion of people who suffer from hunger. ... A world that is not advancing towards the Millennium Development Goals - a world mired in the deprivation of hunger, the prevalence of disease and the despair of poverty - will not be a world at peace.”⁴

10. Some success stories emerge. The most commonly cited instances are China and India, whose achievement in poverty alleviation has contributed to lowering the global poverty statistics. However, while applauding progress, the World Bank cautions against deceiving figures, stressing that while there has been great progress in alleviating poverty, it has been far from even, and the global picture masks large regional differences. The Bank highlights rapid poverty increases in Europe, Central Asia and sub-Saharan Africa and notes that even where poverty alleviation is recorded, such as in Asia, serious poverty-related issues prevail when examining the various social indicators⁵ such as health indicators (child mortality rates, maternal mortality, HIV/AIDS, to mention a few).

11. The case of the least developed countries (LDCs) is particularly alarming. The latest UNCTAD report on the LDCs, dealing with trade and poverty,⁶ insists that the incidence of extreme poverty in LDCs has not declined during the 1990s. It stresses that “if these trends persist, it may be estimated that the number of people living in extreme poverty in the LDCs will increase from 334 million people in 2000 to 471 million in 2015” (p. 18). That LDCs are more vulnerable to civil conflicts than other developing countries is a troublesome matter which reminds us of the link between poverty and conflict.

12. In the face of such a situation, there is a fear that international commitments would remain rhetorical. In 2004, more vocally than before, organizations including international financial and trade institutions, have been denouncing this striking imbalance, calling for increased efforts and actual implementation of commitments in order to accelerate poverty reduction. The Global Conference on Scaling up Poverty Reduction, which was organized in Shanghai, China, from 25 to 27 May 2004 by the World Bank and other organizations, illustrates a practical will to take stock of poverty reduction experiences, successes as well as failures, with a view to efficiency and better coordination. In his closing remarks to the conference, the President of the Bank, James Wolfensohn, called for effective change, linking the fight against poverty to the overarching goal of peace:

“I believe that today [poverty] is not central on the global agenda. I believe that today lip service is given to the question of poverty. There are safe statements made by just about everybody about the issue of the [Millennium Development] Goals and about poverty. But the real issues today that seem to be on the mind of the world, terrorism, Iraq, Afghanistan, strains in the Trans-Atlantic Alliance, budget deficits, parochial problems, the visible problems that must be dealt with that are immediate, while attention is given less to the equally inevitable and the equally dangerous problems that come with poverty.

“We must deal with the question of social equity and social justice. Because without dealing with that question of poverty, there can’t be any peace, and \$900 billion being spent on military expenditure, \$300 billion being spent on agricultural subsidies, and \$50 or \$60 billion being spent on overseas development assistance is one of the absurdities that we have to change.

“And so I think all of us have to go out of here with a certain missionary zeal to try and remind people that poverty and the environment in which we live are the real challenges for peace and that we need to give them priority.”⁷

13. The principles evoked by James Wolfensohn - equity, accountability and empowerment - are inherent to a human rights approach to poverty reduction. A text on human rights and poverty combining principles with an operational dimension could be a valuable international tool for all, embedding rights and responsibilities in the fight against poverty, with a view to bringing this challenging objective beyond the realm of rhetoric.

II. THE PUNE DISCUSSIONS: PRINCIPLES, THEMES AND ISSUES; MOVING FORWARD

14. During the Pune meeting, the members of the Sub-Commission focused on what they deemed to be principles relating to human rights and poverty eradication, as well as relevant themes and issues. They also considered ways to move ahead towards the preparation of a draft text. The present section contains a summary of the discussions in Pune.

A. Principles

15. The group of experts considered that respect for human rights was an essential element in overcoming poverty and extreme poverty, and in that regard, considered principles that they deemed inherent to the consideration of a possible text. The experts bore in mind the OHCHR Draft Guidelines on Human Rights and Poverty Reduction and the underlying principles presented in the group’s preliminary working paper (E/CN.4/2003/17).

Dignity

16. The basis of the United Nations approach to extreme poverty and exclusion from society was that, as the Commission has reaffirmed, it “constitutes a violation of human dignity” requiring urgent national and international action. The work on poverty at all levels must start from the inherent dignity of every human being, as poor as she or he may be; they must become actors and never be objects. This was, however, sometimes a difficult transition for both the poor and non-poor to make.

The rights-based approach

17. There was full agreement that any approach to poverty reduction must be explicitly based on international human rights norms, which provided grounds for empowerment, participation, accountability, non-discrimination and equality (E/CN.4/Sub.2/2003/17, para. 31,

E/CN.12/2001/10, paras. 9-13). Such an approach must be holistic, based on the universality, indivisibility and interdependence of civil, political, economic, social and cultural rights (E/CN.4/Sub.2/2003/17, paras. 11-15). It was considered that the rights-based approach would allow a clear identification of the obligations and accountability requirements of State and other actors both nationally and internationally (*ibid.*, paras. 36-39, E/CN.12/2001/10, paras. 14-18).

18. In this connection, there was also agreement that the international human rights standards were largely sufficient to address the issue of poverty and extreme poverty from a human rights perspective, and that it was not necessary to establish a new right to be free from poverty or new norms (HR/GVA/POVERTY/SEM/2001/BP.2, p. 8).

Participation

19. The importance of ensuring the participation of the poorest had become a constant element in all United Nations work on human rights and poverty. It was increasingly being acknowledged that efficient and sustainable action against poverty required the participation of people living in poverty, "... in the identification of their problems, and in the design, implementation and evaluation of measures to be taken to solve these problems (E/CN.12/2001/10, para. 12)". It was agreed that the participation of people living in poverty should be an essential element in the preparation of the text.

20. The level of trust and confidence between those living in poverty and government officials was a crucial factor of participation. However, in many countries, such trust did not exist. Efforts were therefore needed in order to build trust between the citizens and the Government, including through strengthening the rule of law and good governance.

The capability approach to understanding poverty

21. There was also agreement that the capability approach to understanding poverty was the most appropriate within a human rights framework. "The capability approach defines poverty as the absence or inadequate realization of certain basic freedoms ... poverty can be defined equivalently as either the failure of basic freedoms - from the perspective of capabilities, or the non-fulfilment of rights to those freedoms - from the perspective of human rights (E/CN.4/Sub.2/2003/17, para. 27)." These capabilities or rights were not only material in nature, "poverty encompasses a large number of aspects of life, many of which involve rights related to personal safety and integrity, as well as economic and social safety and well being" (HR/GVA/POVERTY/SEM/2001/BP.2, p. 5).

22. The capability approach took into account the particular vulnerability of people living in poverty and extreme poverty. Poverty rendered people vulnerable to many human rights violations and particularly affected certain groups such as women or minority groups (E/CN.4/Sub.2/2003/17, para. 34; HR/GVA/POVERTY/SEM/2001/BP.2, pp. 2, 5 and 8; E/CN.12/2001/10, paras. 5 and 11). The equality and non-discrimination principle calls for dealing with the specificities of these vulnerable groups.

Learning from those living in poverty and building on their efforts

23. The capability approach to understanding poverty also enabled the experts to take into consideration the efforts made by those living in poverty to improve their condition and the importance of initiatives to remove obstacles to their efforts.

“Due to their difficult living conditions, poor people will often be highly resourceful in terms of surviving. ... However, many poor people experience obstacles to their own efforts to improve their situation, obstacles that may be due to corruption, to the authorities evicting them from houses, or from land where they grow their food, the requirements of school uniforms to be able to attend school, etc.”⁸

This underlines the need to educate the non-poor about people living in poverty.

B. Themes and issues

24. Three general themes were identified during the Pune meeting as underlying the work on a draft document. First, violation of human rights is both a cause and a result of extreme poverty. People living in extreme poverty experience insecurity, which prevents development from being successful. Thus, a level of sustained security is necessary for people living in extreme poverty to improve their situation and to be able to enjoy human rights. Second, extreme poverty involves real and substantial deprivations of economic and material resources and is also a violation of human dignity and human rights. Third, in order to eradicate extreme poverty, and thus fulfil human rights, it is essential to develop machinery for participation of the poor in the definition of their problems, the planning of projects, their implementation and their evaluation (see HR/GVA/POVERTY/SEM/2001/BP.1, p. 1).

25. In addition, the participants identified a number of questions that needed to be addressed in relation to the preparation of the draft document.

A holistic approach to human rights

26. The information and analysis presented during the Pune meeting and the analysis developed previously in considering the question of draft guidelines on human rights and extreme poverty stressed that a sustainable response to poverty elimination requires the enjoyment of the whole range of human rights. Poverty and extreme poverty violate a wide range of rights, if not almost all human rights. Human rights violations can cause poverty and poverty itself results in human rights violations (HR/GVA/POVERTY/SEM/2001/BP.2, p. 8). Some violations are immediately obvious (for instance, the violation of the right to food can be characteristic of a situation of extreme poverty) while the more insidious impact of poverty on the enjoyment of other rights can be as severe:

“There is a tendency to separate out certain rights as being of more importance to the poor than others. These may be rights such as the right to an adequate standard of living, to health care, to education, and to food. Certainly, people living in poverty face violations of these rights on a regular basis. However, this does not imply that they are the only human rights which are important for poor people. Without a comprehensive approach, in which civil and political rights (such as the freedom of

expression, right to participate in the government in one's country, right to privacy, right to family life, freedom from arbitrary arrest and from torture, etc.) are given equal weight to economic, social and cultural rights, the empowerment that the International Bill of Rights provides for all people - including those living in poverty - will be lost" (HR/GVA/POVERTY/SEM/2001/BP.1, p. 2).

27. In this connection, it was also agreed that a holistic approach based on the universality of human rights must be adopted in dealing with poverty (E/CN.4/Sub.2/2003/17, paras. 8-11; Commission resolution 2003/24). The importance of access to justice was also stressed (HR/GVA/POVERTY/SEM/2001/BP.2, p. 5). Nevertheless, while on the level of principle all human rights had a place in the eradication of poverty, at the operational country level, certain rights might need more attention than others (E/CN.4/Sub.2/2003/17, paras. 8-10). Determining those rights should involve people living in poverty as it should depend on their actual experiences and the way they saw their lives.

28. In their discussions, it was recognized that poverty often attacked the basic right to life and that it threatened the very biological sustainability of human beings and that consideration could then be given to focusing on certain human rights considered key to the protection of the right to life: the right to adequate food, the right to drinking water, the right to shelter, and the right to health (see e.g. the discussion in E/CN.4/Sub.2/2002/15). The Commission on Human Rights addressed this issue during its fifty-ninth session and, in its resolution 2003/24, encouraged the working group to adopt an approach to human rights and extreme poverty based on the universality, indivisibility, interdependence and interrelation of all human rights. The Commission recalled that freedom from want and fear could only be achieved if conditions were created whereby everyone could enjoy his or her economic, social and cultural rights, as well as his or her civil and political rights (para. 9).

Who are those living in poverty?

29. The rights-based and capability approach to poverty resulted in a multidimensional definition of poverty and extreme poverty that went beyond income poverty. A number of definitions were set out in the Secretariat's paper submitted to the 2001 seminar (HR/GVA/POVERTY/SEM/2001/2) and the Committee on Economic, Social and Cultural Rights had defined poverty as: "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" (E/C.12/2001/10, para. 8). Although poverty and extreme poverty were overwhelmingly concentrated in developing countries, it also affected rich countries, as underlined by the Committee: "poverty is not confined to developing countries and societies in transition, it is a global phenomenon experienced in varying degrees by all States" (ibid., para. 5).

Who are those living in extreme poverty?

30. The work of the Commission on Human Rights and the Sub-Commission at its outset focused on extreme poverty. Working with the poor had revealed that there existed people living in extreme poverty who were even more marginalized and were rarely reached by ordinary poverty research activities or touched by participation initiatives. Because they suffered from an accumulation of human rights violations which put them in an inextricable situation, special

efforts had to be made to reach and understand them. That was the conclusion reached by Special Rapporteur Leandro Despouy as well as at the 1994 seminar on extreme poverty - a gathering at which persons living in extreme poverty and people working with had taken part. The Special Rapporteur defined extreme poverty as “an accumulation of mutually reinforcing misfortunes: poor living conditions, insalubrious housing, unemployment, ill health, lack of education, marginalization, etc., a veritable ‘horizontal vicious circle’ of poverty, to use the words of those concerned” (E/CN.4/Sub.2/1996/13, para. 177). The Special Rapporteur also described the reasons why people living in extreme poverty did not appear in official data collection, an issue which is acknowledged by the World Bank and UNICEF, for instance.

Understanding human rights and poverty through those living in poverty

31. In approaching the drafting of possible guidelines on poverty and/or extreme poverty, the necessary understanding and description of what it meant to live in poverty could be built bottom-up. In other words, the experiences of people living in poverty could be used to define their conditions in human rights terms. Sigrun Skogly, in her paper to the 2001 seminar, stated that “by making a firm link between the current normative framework of human rights and the real life experiences of the poor, the Declaration would provide clear added value to the already existing human right instruments. It would also, by referring to normative and operational aspects, provide a tool in the advocacy work of those engaged in poverty eradication from the grass-root level to large international fora” (HR/GVA/POVERTY/SEM/2001/BP.2, p. 7).

The challenges of establishing dialogue with those living in poverty

32. Mention was made above of the difficulties encountered in reaching the poorest. Doing so in a way that respected the dignity of those concerned was a very serious challenge. The experience of those working closely with people living in poverty in preparing the 1994 seminar and meetings between them and the Secretary-General and the High Commissioner for Human Rights, for example, had led to a better understanding of how that could be done. Successfully engaging people living in poverty in the preparation of a new document would certainly require considerable efforts by all but would strengthen the document.

Human rights measures for combating poverty

33. Work undertaken on a human rights approach to the elimination of poverty had highlighted potential specific measures at the national and international levels. Importance was given to using existing international mechanisms by having them focus more attention on poverty-related issues. In addition, recommendations had been made for mechanisms for participation, the role of States and public and private actors and of transnational corporations. The need for multilateral cooperation between all actors had also been underlined (see E/CN.4/Sub.2/2003/17, paras. 35-39; E/CN.4/2001/54/Add.1, paras. 24-27; HR/GVA/POVERTY/SEM/2001/BP.2, pp. 9-10).

34. A number of other issues were identified as especially relevant to human rights and the elimination of poverty. The improvement of the status and situation of women and the prevention and elimination of violence against women were seen as crucial to poverty

reduction. The identification of different vulnerable groups and the impact of discrimination on poverty were also considered as essential. Recognizing that in each region of the world poverty had its own characteristics, regional studies on poverty were recommended.

C. Moving forward

35. The issue of how to move towards a text on human rights and extreme poverty received careful consideration during the Pune meeting, on the basis of the various aspects of the Sub-Commission's mandates and the results of the numerous prior meetings and discussions on the subject.

The mandate

36. The members of the group participating in the Pune meeting noted that the Sub-Commission's mandate was wide and detailed and required a proportionally extensive response. As mentioned in the introduction to the present document, in its resolution 2003/13, the Sub-Commission requested the experts to study 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, with a view to the development of a specific instrument that would not overlap with existing treaties and would address extreme poverty in accordance with the Commission's terms of reference - as a violation of human dignity and all human rights, civil and political as well as economic, social and cultural.⁹ The Sub-Commission further asked the group to consider specifically the situations of poverty in various parts of the world in the light of international jurisprudence, treaties, the Covenants and other relevant instruments with a view to putting an end to extreme poverty and social exclusion, and to consider the policies of the World Bank, the World Trade Organization, the International Monetary Fund and other international bodies to fight extreme poverty.

37. The Sub-Commission also encouraged the experts to adopt an operational approach to extreme poverty based on the principles of the justiciability of rights and the need to give States clear obligations and objectives, assigning all countries collective responsibility for combating extreme poverty and human dignity. The experts were requested to adopt an approach to extreme poverty which would strengthen the bonds of solidarity and social inclusion mechanisms, giving the very poorest the capacity to exercise all their rights and enjoy respect for their human dignity. In that resolution, the Sub-Commission also encouraged the establishment, with input from the various parties and population groups, of a range of indicators for keeping track of situations of extreme poverty, its needs and evolution.

The method

38. The Sub-Commission requested Governments to cooperate by providing information and support and requested NGOs, the Secretariat, and regional and international organizations to cooperate and provide information. The Sub-Commission's resolution contained two references to the participation of people living in poverty (it underlined that it is "essential for States to

foster participation of the poorest people in the decision-making process” and refers to the independent expert’s suggestion to bring together people living in extreme poverty and those working with them on policy implementation) that may be relevant to the group’s methodology.

Relevant background documents

39. During the Pune meeting, a number of documents that appeared to gather the various options generated in the process were identified as basic reference documents for the preparation of a draft text (see above).

What should a draft text be like?

40. As a starting point, the Sub-Commission members decided that the objective of a text on human rights and extreme poverty should be to empower those engaged in the struggle against poverty; first, those living in poverty and extreme poverty themselves; second, those working with them; third, the organizations working on the eradication of poverty. It was thus considered that such a document should reflect the human rights situation of those living in poverty and extreme poverty. The latter should see themselves in the document while the non-poor should understand and learn from those living in poverty through the text.

41. The Pune meeting considered that a first part of a draft text should contain a statement of a strong ethical and legal nature, requiring the elimination of poverty. This first part should aim at assisting those living in poverty and all those working towards the elimination of poverty. It should also underline the responsibilities and obligations of governments, international organizations and private actors in the elimination of poverty and extreme poverty (see HR/GVA/POVERTY/SEM/2001/4, para. 4; HR/GVA/ POVERTY/2001/BP.1, pp. 4-5). The language of the document should reflect this objective.

42. A second part was envisaged, containing principles for action addressed to policy makers as well as the United Nations and other intergovernmental or non-governmental organizations involved in development, trade, social and economic policy and environmental matters (*ibid.*). Consideration would have to be given to ways in which these two types of objectives could be combined in one document to respond most adequately to both.

The consultation process

43. During the Pune meeting, the group decided that, in order to be able to respond to the Sub-Commission’s mandate, extensive consultations would be necessary on the elements that might be included in a possible text. The process would involve input from a wide range of actors, including people living in poverty and those working with them. Consultations would be organized through the United Nations system and other international organizations, involving grass-roots organizations, NGOs, United Nations human rights bodies and special rapporteurs and the academic community.

44. During the period immediately following the Pune meeting, the coordinator of the group, with the support of the Secretariat, consulted with representatives of United Nations agencies and non-governmental organizations, requesting their views on the group’s approach to its mandate, on the need for a text on human rights and extreme poverty, and on the nature of such a

text. Overall, those consulted considered a text necessary to strengthen the fight against poverty. At the request of the group of experts, the Secretariat supported its coordinator in the preparation of initial discussion elements for a possible text on human rights and poverty and/or extreme poverty (see Conference Working Papers 1 and 2).

III. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

45. **Following the Pune meeting, and in light of consultations with people living in poverty and various counterparts, the group of experts considers as valuable a possible text on the implementation of existing human rights norms and standards in the context of the fight against poverty. The group of experts believes that such a text, by providing a solid reference to legal standards applicable to all human beings, would serve as an empowerment tool for people living in poverty and those working with them. Such a document should reflect a holistic approach as well as the human rights situation of people living in poverty and extreme poverty.**

46. **The experts recognize that a number of outstanding issues need to be more closely examined and resolved, in consultation with a wide variety of counterparts, in moving towards the preparation of a possible draft.**

47. **In their resolutions on human rights and extreme poverty, the Commission and the Sub-Commission opened the door to a consultative process, requesting the cooperation of Governments, NGOs and regional and international organizations to inform and support the process. The implementation of the participation principle is in line with the human rights approach to poverty reduction and with a method strongly encouraged in final documents of the World Summit for Social Development held in Copenhagen and the World Conference on Human Rights held in Vienna. The experts consider that extensive consultations would be necessary to discuss elements that might be included in possible guiding principles and to refine the approach to this subject. The experts therefore consider it essential to establish and maintain a dialogue with people living in poverty and individuals, institutions or organizations working with them, international organizations involved in poverty eradication, development and/or human rights, grass-roots organizations and NGOs, as well as United Nations human rights bodies and special procedures and academics.**

B. Recommendations

48. **The following recommendations are proposed for consideration by the Sub-Commission:**

(a) **To pursue broad consultations with regional and international intergovernmental organizations, NGOs, grass-roots organizations, academics and other relevant counterparts to consider possible elements of a text on human rights and poverty and/or extreme poverty; particular effort should be made towards enabling the effective inclusion of people living in poverty and extreme poverty in this process;**

(b) In the light of consultations and with a view to reaching a consensus, to clarify how outstanding issues are to be treated, namely, the nature of the document, the definition of poverty, the issue of distinguishing between poverty and extreme poverty, the indivisibility of all human rights versus the prioritization of certain rights in the context of poverty eradication or reduction, and a careful examination of a possible right-by-right approach;

(c) To submit a final report to the Sub-Commission at its fifty-seventh session containing conclusions and recommendations on 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, building on the conceptual framework presented in the preliminary paper, on the resolution of outstanding issues and on broad consultations with counterparts.

Notes

¹ Paulo Sérgio Pinheiro, Yozo Yokota, El-Hadji Guissé and José Bengoa.

² Iulia-Antoanella Motoc, Asbjørn Eide, Yozo Yokota, El-Hadji Guissé and José Bengoa as coordinator, with Emmanuel Decaux and Paulo Sérgio Pinheiro as alternates.

³ Lalanina Rakotoarisoa, Iulia-Antoanella Motoc, Leila Zerrougui, José Bengoa, Soli Jehangir Sorabjee and Yozo Yokota.

⁴ Message of the Secretary-General on the International Day for the Eradication of Poverty, 2003, press release SG/SM/8935-OBV/384, 10 October 2003.

⁵ See www.worldbank.org/poverty.

⁶ UNCTAD, *The Least Developed Countries Report 2004: Linking International Trade and Poverty Reduction*, United Nations publication, Sales No. E.04.II.D.27.

⁷ See www.worldbank.org/wbi/reducingpoverty/docs/ConfDocs/JDWShangaiClosing.pdf.

⁸ “Much could be done in order to respect poor people’s human rights without direct provisions to them, but rather through scrutiny of other elements that affect them in society, or changes in regulation. Needless to say, though [for] people with so few material resources, investment in terms of monetary expenditure may in many instances be necessary. To build schools and to provide basic health-care facilities will require financial expenditure. However, experience shows that people living in poverty find themselves in a complex reality of human rights violations, which, unless directly addressed, will imply that even if hospitals and schools are built, they will not be able to take advantage of these new facilities. The ‘trickle-down’ model does not work.” HR/GVA/POVERTY/SEM/2001/BP.2, p. 6.

⁹ In its resolution 2001/8, the Sub-Commission requested the group “to present conclusions and recommendations in order to contribute to work on a draft declaration on extreme poverty and human rights and other international and regional initiatives”.

Annex

WOMEN, THE JUSTICE SYSTEM AND POVERTY: THE INTERNATIONAL EXPERTS MEETING (PUNE, INDIA, 26-30 JANUARY 2004)

1. The International Experts Meeting on Women and Justice was held in Pune, India from 26 to 30 January 2004. The meeting was sponsored by the Asian Women's Fund and hosted by the Nav Maharashtra Community Foundation in Pune.^a Six members of the Sub-Commission on the Protection and Promotion of Human Rights - Ms. Lania Rakotoarisoa, Ms. Iulia-Antoanella Motoc, Ms. Leila Zerrougui, Mr. José Bengoa, Mr. Soli Jehangir Sorabjee and Mr. Yozo Yokota - took part. The agenda of the meeting enabled Sub-Commission members from Africa, Asia, Europe and Latin America to consider closely, along with experts from India and Asia and women living in poverty and those accompanying them, several aspects of the human rights of women and poverty and extreme poverty.^b The agenda covered the draft guidelines on women and justice, presentations and discussions on women and poverty, and the need to develop guiding principles on human rights and extreme poverty within the framework of the ad hoc group's mandate.

Draft guidelines on women and justice

2. Draft guidelines on women and justice reflecting the concerns of women about their access to justice and treatment within the justice system were discussed based on contributions made by NGOs and individuals at three previous meetings. The guidelines thus dealt with a wide range of issues including: the principle of equal access to justice, influences affecting justice, women as victims/survivors of violence (rape, trafficking, domestic violence, honour killings, harmful practices), family law, foreign women workers, protective custody of women, women as accused, conditions of detention, and implementation and follow-up. Throughout the draft, the impact of poverty on the access of women to justice and the denial of justice to women as a cause of poverty were of central concern. The discussions highlighted the many concrete steps that must be taken to ensure equal and effective access by women, including women living in poverty, to justice. It was also clear that access to justice and equal protection of the law for women could be a major contribution to eliminating poverty and extreme poverty. The final version of the guidelines will be widely distributed, including to the Sub-Commission and other relevant United Nations bodies.^c

Women and poverty

3. The meeting discussed the issue of women and poverty on the basis of a number of papers analysing different aspects of women and poverty, the efforts of women to overcome poverty in developed, transitional and developing countries, and those living in extreme poverty and the need to develop partnerships with them.^d In connection with this item, a project initiated by the Pune Municipal Corporation (see below) that provides support to women in slum areas in fighting poverty, was described, as was a project of an association of architects (Shelter Associates) that assists the poor in gaining access to housing. Further, a number of local NGOs described their activities in the area of women and the fight against poverty. Subsequently, a visit to one project supported by the Municipality and to a housing project sponsored by Shelter Associates took place.

4. The information provided during the meeting made it clear that social and cultural practices had had a marked impact on the poverty of women. In many situations women were less educated and in fact many were still illiterate. Girls drop out of school earlier or simply did not go to school because the schools were located far from their places of residence. Girls who do attend school are thought to be at risk. Early marriage and concubinage are considered to be solutions for protecting girls against possible abuse and attacks on their virginity. In terms of employment, companies employed young women under unfavourable conditions, e.g. work schedules included restricted time for rest room visits. Women's contribution to national political life was low and this made responding to the needs of poor women more difficult.

5. Women remained segregated in low-paying, low-status jobs and often did not enjoy the same level of health and nutrition as men. Yet most of the poverty alleviation programmes focused on a household as unit of assessment, which meant that no special programmes for poor women were established. Although there had been attempts to remove impediments to women's opportunity to work and own property, the disadvantaged status of women had not been adequately addressed. Those disadvantages were intrinsically woven into the structure and fabric of the society, where more positive measures were needed. Gender segregation started in the home and school and has perpetuated throughout a women's life. Violence against women was also directly related to poverty. Violence against women took a variety of forms - dowry-related offences, domestic violence, etc. Finally, domestic violence was a fact, but it was often a taboo subject unless a woman was prepared to accept an impending divorce.

6. Women also suffered the double burden of both paid and unpaid labour (as principal caregiver at home and domestic work). The latter was considered unproductive work and not recognized in the labour market. Therefore, women had less time for training or for overtime at the workplace and missed out on advancement opportunities. That double burden must be recognized and benefits given to support women in discharging both types of work.

7. Women living in extreme poverty and exclusion often lacked legal identity documents and thus were not even recognized by the law since their very existence was not recorded. People living in poverty experienced many forms of discrimination and had multiple and bad encounters with the law. Their distrust of law enforcement and government agencies meant they would not easily turn to them for assistance. The legacy of extreme poverty perpetuated denial of human dignity. Poverty reduced a person's dignity and subjected her to insecurities, which resulted in the absence or denial of fundamental human rights. Sometimes mothers resorted to extreme measures like begging to earn sufficient amounts for school fees. In cities, it was important to study the pull factors that drew the poor to the cities in search of work, but instead they ended up living in slums or on the streets.

Acting against poverty: the women's perspective

8. Overcoming women's subordinate status inside and outside the home was largely dependent on her ability to generate income and own property. Whenever women had access to finances, either through the microcredit programmes or other forms of enhancement of their financial capacities, violence against them was found to have reduced and they were even accorded a degree of respect and immunity from abuse. However, it was noted that employment guarantee schemes, while creating employment opportunities for women, could also result in allowing men to neglect their responsibilities.

9. Governments in several countries had developed plans to combat poverty whereby the benefits of programmes was required to accrue more and more to the poor. Women were worst affected by poverty, yet they coped with it the best and therefore they required maximum support. Most poverty alleviation programmes were gender neutral but with increasing awareness and international attention, women's policies and programmes were being introduced by both NGOs and Governments.

10. Governments had adopted national policies to promote women which granted priority to economic development and the fight against feminization of poverty. Different programmes looked at specific marginalized groups which were most vulnerable: urban poor were given support by providing low-cost housing, education, training and other facilities; reserved seats in local political bodies and decision-making bodies encouraged women's empowerment; the private sector also helped, e.g. with primary education and health. But most effective change was brought about by women's collectives. Self-help groups had proved necessary in creating more effective programmes. The success of those programmes required that trust be built up between the people and government authorities, which was often not the case. Access to justice was essential. A programme in one country of free legal aid that had proved effective was described.

11. It was emphasized that programmes aimed at poverty alleviation must involve the extremely poor as participants to ensure that the programmes were relevant to them. Those programmes should be seen as partnerships in capacity-building, understanding one's rights, taking on responsibilities, etc. It was also important to provide ongoing training. The European Court of Justice had issued some good decisions on the issue of poverty and the affirmative action permitted to address it.

12. The need to develop a working definition of poverty and to distinguish between poverty and extreme poverty was underlined, extreme poverty being understood as a situation of deprivation of human rights, including dignity, reflected through contemporary forms of slavery and vice versa. There are legal, social and economic considerations involved in the definitions of poverty: women divorced and without support or shelter and with children are literally on the street and are seen begging with their children; women widowed by terrorism were without any support. There was also a need to define poverty in a legal framework.

13. There was no uniform standard of poverty and want. Different women experienced different degrees of poverty. Some might suffer from abject poverty and want while others might suffer from different connotation of poverty - cultural, political and economic. There were levels of poverty and each level had different requirements for combating it. The issue of poverty could not be addressed in isolation since many factors influenced poverty and the empowerment of women. Many related topics, like land reform, education, etc. needed to be addressed to alleviate poverty and develop opportunities for the poor. It was important to study the impact of culture on poverty and in particular women and poverty. It was recognized that women living in poverty and those working with them had a deep understanding of poverty, its causes, and what steps and methods were necessary to eliminate it. The knowledge and experience of women living in poverty were essential in designing anti-poverty programmes that took into consideration the specific characteristics of each situation.

Study visits

14. The study visits showed how women's groups that began as savings associations could raise the social status of women, enable them to conduct business with local government and extend their activities to income generation, cultural activities, and health and neighbourhood improvement. The visit to the housing development project showed that early consultation with the potential owners of the apartments enabled them to be designed to better respond to the needs of the future users and make better use of the limited resources in land and money available. This contrasted with other apartments visited which were not designed in consultation with the future users. The following is a summary of one project visited.

Urban anti-poverty initiative

15. The Pune (India) Urban Community Development (UCD) programme is a government initiative targeting selected communities to alleviate poverty. The programme supports the establishment of women (only)-centred neighbourhood groups (NHG) in all targeted urban slums, each consisting of 50 members. Since the members come from the same community, the programme fosters close links, attachments and intimate knowledge about each family. In general, identification and recommendations for any government grants need to be confirmed by the president of a local NHG. One fifth of slum dwellers in the city of Pune are covered under this scheme.

16. The women meet every week. Various training programmes and vocational training courses in different disciplines are provided under this programme. Products manufactured in these groups may be placed with the UCD central marketing outlet. The NHG is empowered to solve their local problems without actually approaching local authorities. Women in the communities start saving money within the groups. They also help each other by lending each other money, in particular in times of crisis/emergency, thus changing their roles from mere recipients to donors or support givers.

17. During a visit to one slum area, the Sub-Commission members met with over 100 women of the Neighbourhood Group. Several women related their experiences as a result of the project as follows. They said that they were now working and earning income through different activities. Sometimes women came together and, in groups of two or three, undertook income-generating activities like operating a canteen (generating at least Rs 50 each day per woman), a patchwork quilting group (the groups buy cloth remnants from nearby tailors; each piece, taking 15 days to complete, could sell for up to Rs 500), spice packaging, bag-making, etc. Sometimes these small groups would take orders from retailers (e.g. making jewellery pouches).

18. The women started savings groups and appointed treasurers amongst themselves. They opened saving accounts in the bank. The women collectively opposed the consumption of illicit liquor by their spouses. The women now know each family and help each other. Previously, they did not even know the names of the other residents. The women were able to negotiate with the authorities themselves instead of going through intermediaries to obtain electricity connection, etc. and they knew their rights. They now had the courage to leave their homes because they were literate and could read the bus numbers and road names, etc. They helped convince men in other families to allow other women to join their group because it would

generate income for the families. They did not have to wait for their husbands to return with the daily wage, but could buy and prepare food from the money they had either earned or saved. On the whole, the women felt that the programme had empowered them and although there were many other challenges, they were happier.

Notes

^a The Asian Women's Fund, which organized and provided the financial support for the meeting, was established in 1995 with the support of the Government of Japan to extend atonement and support to those who suffered as "wartime comfort women" during the Second World War and to address contemporary issues which affront the dignity and rights of women. The Nav Maharashtra Community Foundation provides assistance to those working with urban and rural poverty in the State of Maharashtra.

^b The participants in the meeting were: Dr. Nirmala Pandit, Managing Trustee of the Nav Maharashtra Community Foundation; Mr. Persida V. Reuda-Acosta, Chief Public Attorney (Public Defender) of the Philippines; Ms. Burnad Fathima Natesan, Women Training Centre, Tamil Nadu, India; Ms. Mangala Daithankar, Nav Maharashtra Community Foundation; Ms. Zarizana Abdul Aziz, Attorney, Penang, Malaysia; Ms. Marie-Claire Droz, Asian Representative of ATD Fourth World, Bangkok, Thailand; Mr. Ashok Kalamkar, Joint Municipal Commissioner, Pune Municipal Corporation; Ms. Pratima Joshi, Shelter Associates, Pune; Ms. Mizuho Matsuda, Asian Women's Fund (Tokyo). In addition, Thomas McCarthy a consultant (Switzerland) took part.

^c For more information on the draft guidelines on women and justice, contact the Asian Women's Fund, 2-7-6 Kudan Minami, Chiyodaku, Tokyo 102-0074 Japan, tel: 813 3514 4071 Fax: 813 3514 4072 e-mail: matsuda@awf.or.jp.

^d These papers may be requested from the Asian Women's Fund.
