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**ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND REPORTS OF THE OFFICE OF THE HIGH
COMMISSIONER AND THE SECRETARY-GENERAL**

**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***

* Late submission.

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Summary

In its resolution 7/27, the Human Rights Council invited the Office of the United Nations High Commissioner for Human Rights to further consult relevant stakeholders on the draft guiding principles on extreme poverty and human rights: the rights of the poor, including through the organization of a seminar, and to submit a report to the Council to allow it to take a decision on the ways forward with a view to the possible adoption of guiding principles on the rights of persons living in poverty.

The present report draws from and summarizes all submissions collected during the two rounds of consultation of 2007-2008, which concluded with a seminar held in Geneva on 27 and 28 January 2009, with States, civil society organizations, international experts, including the independent expert on the question of human rights and extreme poverty,* and other relevant stakeholders. Section III of this report also reflects the views expressed on the way forward with a view to the possible adoption of guiding principles.

The consultation processes have disclosed a broad consensus among respondents on the importance of preparing guiding principles on extreme poverty and human rights. Guiding principles have the potential to strengthen the implementation of existing international human rights law, rendering international human rights law and policy directly relevant to people living in extreme poverty. However, the current draft guiding principles require work in a number of areas. Significantly, their language and terms need to conform more systematically with those of international human rights law. Topics requiring further discussion include the level of detail guiding principles should have, how to strike a balance between normative clarification and operational guidance, and whether or how to deal with global and structural causes of poverty.

Although there are a number of views and preferences to be reconciled, the collective input derived from the consultations reveals a widespread commitment to advancing this project.

At the end of the seminar, the Government of France made a proposal on the way forward, recommending that the Human Rights Council mandate the independent expert on human rights and extreme poverty to carry out a revision of the draft guiding principles. The proposal received the unanimous support of all participants and the independent expert expressed her readiness to undertake such a task, should the Council so decide.

* Hereinafter to be referred to as “independent expert on human rights and extreme poverty”.

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Introduction

1. In 2001, the Commission on Human Rights stressed the need to develop guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty. In response, an ad hoc group of experts was entrusted by the Subcommission on the Promotion and Protection of Human Rights with preparing draft guiding principles on extreme poverty and human rights, which were submitted to the Human Rights Council at its second session in 2007. As called for in Human Rights Council resolution 2/2, the Office of the United Nations High Commissioner for Human Rights (OHCHR) circulated the draft guiding principles to obtain the views of States, relevant United Nations agencies, intergovernmental organizations, United Nations treaty bodies and special procedures mandate holders, including the independent expert on the question of human rights and extreme poverty, national human rights institutions, non-governmental organizations (NGOs), especially those in which people in situations of extreme poverty express their views, and other relevant stakeholders.
2. The implementation of Human Rights Council resolution 7/27, a second round of consultations provided an opportunity to seek further the views of all relevant stakeholders on the draft guiding principles. Respondents were invited to consider the following two questions: (a) the added value and practical utility of the draft guiding principles in helping to implement existing human rights norms and standards in the context of the fight against extreme poverty; and (b) the technical legal merit of the draft guiding principles from the perspective of existing human rights norms and standards.
3. The two rounds of consultation in 2007 and 2008 generated significant feedback, which cannot be reflected comprehensively in this report. While some comments are of a more general kind, others range from specific language modifications in tracked changes to alternative formulations, or even suggested additional paragraphs.
4. These consultations concluded with a seminar held on 27 and 28 January 2009, in Geneva, with States, civil society organizations, international experts, including the independent expert on human rights and extreme poverty, and other relevant stakeholders. While inputs gathered in the 2007 consultation are reflected in the report of the United Nations High Commissioner for Human Rights on the draft guiding principles (A/HRC/7/32), a more detailed account of all views and comments is found in a background paper prepared for the seminar and in a final technical review of the process. These two papers¹ were commissioned by OHCHR to an independent consultant, Dr. Margot Salomon, of the London School of Economics and Political Science.

¹ These papers, which are intended to serve as main reference documents of a future review of the draft guiding principles, do not necessarily reflect the views of OHCHR, the United Nations or the consultant.

I. GENERAL VIEWS ON THE DRAFT GUIDING PRINCIPLES: ADDED VALUE, PRACTICAL UTILITY AND TECHNICAL MERIT FROM A LEGAL PERSPECTIVE

5. The draft guiding principles are widely viewed as having the potential to advance the objectives of international human rights law. All respondents - Governments, NGOs and other stakeholders - expressed support for the development of guiding principles in this area and indicated that, in general, they represent an appropriate framework for shaping measures and activities in order to address extreme poverty across the world. As noted by the independent expert on human rights and extreme poverty, they are particularly relevant because there is no single document in the human rights law corpus that addresses specifically the rights or needs of persons living in extreme poverty. At the opening of the seminar, Alberto J. Dumont, Ambassador of Argentina and Vice-President of the Human Rights Council, recalled Council resolutions 2/2 and 7/27, which underscore that the application of international human rights law in fighting extreme poverty is a priority of the Council.

6. Zdzislaw Kedzia, a newly appointed member of the Committee on Economic, Social and Cultural Rights, echoed the view of other respondents, however, when he recommended that the specific nature and objectives of the document be clarified before discussion of its added value.² The document could be viewed either as guidelines on the human rights of the poor, bringing together relevant human rights standards and applying them contextually, as guidelines on the elaboration of an operational framework for poverty eradication, or both.

7. The Representative of the Secretary-General on the human rights of internally displaced persons remarked that guiding principles would have an added value to the extent that, in addition to restating existing guarantees, they would also spell out specific aspects of rights that are particularly important for persons living in extreme poverty and address obstacles that, in practice, limit the enjoyment of human rights. Professor Wouter Vandenhole, of the University of Antwerp, suggested that a clear analytical account of how and when human rights are deficient in addressing extreme poverty should be provided for in the guiding principles. The Centre on Housing Rights and Evictions suggested that a real added value would come from setting out the particular obstacles persons and communities living in extreme poverty face, so that States may be provided with direction on eliminating those obstacles. At the seminar a clear consensus was reached regarding the need for a more operational, action-oriented and accessible document, as stated by the Governments of Canada, France, the Philippines, Turkey, and the United Kingdom of Great Britain and Northern Ireland, the independent expert on human rights and extreme poverty, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,³ the World Alliance for Citizen Participation (CIVICUS) and many others.

² United Nations Development Programme and Wouter Vandenhole.

³ Hereinafter referred to as Special Rapporteur on the right to health.

8. The adoption of the draft guiding principles may also aim to raise awareness among persons living in extreme poverty and the population at large as to their rights and entitlements. The Government of Argentina expressed its support for the human rights-based approach to the eradication of extreme poverty, emphasizing that “basic rights” are a matter of justice, not charity. The consensus reflected in the 2008 joint submission of 11 NGOs was to commend the human rights approach to poverty reduction adopted in the draft guiding principles, and in particular, the way in which they address the process of poverty eradication, and not merely the outcome.⁴

9. Professor Arne Tostensen, Chairman of Michelsen Institute, Professor Camilo Pérez Bustillo, of Universidad Autónoma de la Ciudad de México, and Wouter Vandenhole expressed the view that the draft guiding principles as currently framed do not address sufficiently the structural phenomenon of extreme poverty in a global context. The Governments of the Syrian Arab Republic and Egypt reiterated during the seminar that, unless the role of international cooperation is considered, the document will become a tool solely for action at the national level, to the possible neglect of important responsibilities at the international level. International Movement ATD Fourth World (ATD), however, expressed concern that a supranational focus might render guiding principles less directly operational, although it supported retaining in the draft guiding principles the provisions concerning international cooperation and non-State actors.

10. The draft guiding principles have the potential to be a useful lobbying tool for civil society organizations to encourage States to realize fully the rights of extremely poor persons. The Tunisian Higher Committee on Human Rights and Fundamental Freedoms and a number of other respondents⁵ viewed the implementation of guiding principles as a new advocacy tool for the achievement of the Millennium Development Goals and poverty reduction strategies, based on a new common legal framework. The Government of Mexico noted in this regard that it hoped to see the draft guiding principles provide orientation in fulfilling the commitments under the Millennium Development Goals that are of particular relevance to the rights of people living in poverty. As for all human rights standards, having the guiding principles reflected in legislation would also help to ensure that they are given effect to domestically.

11. In the consultation on the draft guiding principles undertaken with people living in extreme poverty, respondents emphasized the importance of being afforded recognition by authorities, and bearing that in mind, programmes and policies should be developed with their

⁴ Bahá'í International Community; Caritas Internationalis; CIVICUS; Franciscans International; International Catholic Child Bureau; International Council of Women; International Federation of Social Workers; International Movement ATD Fourth World; Lutheran World Federation; Pax Romana; World Organization against Torture; hereinafter referred to as the 2008 NGO Consultation.

⁵ The Government of Ireland, the independent expert on human rights and extreme poverty and Joseph Ingram.

participation.⁶ They reiterated that those in positions of responsibility need to meet and talk with poor women and men, in order to gain their trust and involve them in finding solutions. An added value of guiding principles then is the sense of personal dignity that comes from being acknowledged.

12. There was a strong sense from respondents, such as the Governments of France, Switzerland and Turkey and the independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights,⁷ that the objective should not be to create new human rights standards, but rather that it should be to reflect existing human rights norms as applied to extreme poverty. Virtually all respondents emphasized the need to ensure that the guiding principles are written in a manner that conforms with the agreed language, terms and principles found in international human rights instruments and developed through jurisprudence (e.g., general comments).

13. The Special Rapporteur on the right to health and several other respondents commented on the excessive references made to penal law,⁸ and questionable use of criminal law language in some cases, which might deter people from taking action to ensure the progressive realization of social and economic rights.

14. In his presentation at the seminar, the independent expert on foreign debt noted that the draft guiding principles should make it clear that the guiding principles are not to be interpreted as limiting, altering or otherwise prejudicing the rights recognized under international human rights law. The Centre on Housing Rights and Evictions urged that every care should be taken to ensure that the draft guiding principles do not inadvertently set a lower standard than is established elsewhere.

15. A number of respondents suggested that the structure of the draft guiding principles could be improved. The structure should pay greater attention to some well-established principles in international human rights law of central relevance here, such as the prioritization of the most vulnerable groups, progressive realization, minimum core obligations,⁹ the principles of maximum available resources and of non-retrogression and the principles already reflected in the draft guiding principles.

⁶ This consultation was organized by International Movement ATD Fourth World. Its report provides that the views were solicited of people living in extreme poverty in France, Peru, Poland, Senegal, Switzerland and Thailand.

⁷ Hereinafter to be referred to as “independent expert on foreign debt”.

⁸ South African Human Rights Commission, Zdzislaw Kedzia, Wouter Vandenhole and Joseph Ingram.

⁹ Edward Anderson, David Gordon, Joseph Ingram and Wouter Vandenhole.

II. COMMENTS ON THE CONTENT OF THE DRAFT GUIDING PRINCIPLES

A. Preamble

16. Several NGOs suggested that it would be appropriate to include in the preamble specific references to relevant human rights instruments, beyond the few mentioned. Camilo Pérez Bustillo suggested referring more explicitly to, *inter alia*, articles 22, 25 and 28 of the Universal Declaration of Human Rights.

17. The absence in the preamble of any reference to the Millennium Development Goals¹⁰ and to a number of relevant policy documents was also noted, including the OHCHR Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies,¹¹ and relevant work by the United Nations Development Programme (UNDP) and other agencies in this area. The Government of Mexico recommended an explicit reference to Goal 1, given its focus on eradicating extreme poverty and hunger.

18. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people¹² suggested that, owing to the uniqueness and severity of the issue of poverty for indigenous peoples, a specific reference to it should be included in the preamble.

19. The Government of the Philippines suggested calling for continuous international cooperation and decisive action for the eradication of extreme poverty not only on the national level, but also on the subnational level.

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

20. A number of respondents pointed out that the concepts of extreme poverty, basic poverty and social exclusion in the draft guiding principles are not defined and that those omissions need to be addressed. There was a sense nonetheless among some respondents¹³ that a general definition of poverty would also be important to the understanding and interpretation of the text, and that it needed to be drafted in a clear and suitably comprehensive manner. At the seminar, Professor Peter Townsend, of the London School of Economics and Political Science, advocated for moving towards an international measure or definition of poverty by using the international human rights framework, which, he noted, offers the means to do so. The Special Rapporteur on the right to health even proposed including indicators in the draft guiding principles as a mandatory requirement for States to monitor and be accountable. Joseph Ingram, the former

¹⁰ Zdzislaw Kedzia.

¹¹ These guidelines were drafted by Paul Hunt, Manfred Nowak and Siddiq Osmani.

¹² Hereinafter to be referred to as “Special Rapporteur on indigenous people”.

¹³ The Governments of Greece, the Philippines, Baha’i International Community, 2008 NGO Consultation, Kamal Siddiqui and Edward Anderson.

World Bank Special Representative to the United Nations and the World Trade Organization, further stated that monitoring and accountability cannot be achieved without an explicit reference to the principle of progressive realization, which is currently missing in the draft guiding principles.

21. The Governments of Argentina and the Bolivarian Republic of Venezuela, and the National Consultative Commission on Human Rights (France) remarked that extreme poverty is a violation of basic rights and a leading factor in aggravating discrimination. The Government of Mexico, however, was of the view that extreme poverty is a violation of human dignity, while the Government of Finland stated that poverty as such is not a human rights violation but the causes and consequences of extreme poverty often constitute violations of various human rights. At the seminar, the independent expert on human rights and extreme poverty remarked that the issue of whether poverty constitutes in itself a violation of human rights is not an easy question and suggested that the draft guiding principles should stress instead how human rights are applicable to people living in extreme poverty.

22. The independent expert on human rights and extreme poverty suggested that non-discrimination should also be developed in paragraph 3, thereby grounding and rendering consistent the references provided elsewhere in the draft guiding principles, and situating non-discrimination as an overarching element. The Centre on Housing Rights and Evictions noted that this process constitutes a unique opportunity to unequivocally recognize poverty as a ground of discrimination, thereby enriching the international law *acquis* in this area.

23. The Government of Switzerland and Zdzislaw Kedzia suggested that the universal periodic review be mentioned in paragraph 5.

24. Joseph Ingram suggested incorporating the recommendation that country economic and sector analyses conducted by the Government and/or donor institutions (e.g., the international financial institutions) explicitly identify the poorest and the most marginalized, and that national development or poverty reduction strategies address the needs of the poorest as a priority.

B. Section 1

Participation by the poor

25. Many respondents¹⁴ and seminar participants¹⁵ stressed generally that the subsection on participation by the poor should make more explicit references to the participation of specific groups, including indigenous and tribal peoples, minority groups, persons with disabilities, older persons, migrants, women and girls, etc.

¹⁴ The Special Rapporteur on indigenous people, the Government of Costa Rica and the 2008 NGO Consultation.

¹⁵ The Government of Ecuador and the statement read on behalf of the independent expert on minority issues.

26. Specific remarks on the participation of women were made by Peter Townsend, Care International, and the Ukrainian Parliament Commission for Human Rights. However, the Secretariat of the Pacific Community remarked that the feminization of poverty and the participation of women in anti-poverty strategies are not the same issue and should not be included together in a section on participation. It further suggested that recognition of the feminization of poverty should be mainstreamed throughout the document.

27. Light for the World advocated the full and effective participation of persons living in extreme poverty in all activities that concern them and in programmes for the eradication of extreme poverty. Joseph Ingram highlighted participation in the monitoring and evaluation phases. The Government of Finland highlighted the need to state in the subsection on participation by the poor that the poorest should have the right to be informed of their rights and of the obligations of their Governments to implement those rights. At the seminar, ATD and CIVICUS reiterated the need to describe the conditions necessary for meaningful participation to avoid token participation or the manipulation of participation.

28. The Government of Georgia remarked that the participation of people living in extreme poverty in programmes for the eradication of extreme poverty should be voluntary.

Discrimination and stigmatization

29. The need for consistency with the conventional language of equality and non-discrimination was remarked by several respondents, including the Deputy Chief Prosecutor of the Supreme Court (France) and former Chair of the Committee on the Elimination of Discrimination against Women. At the seminar, the Government of Bolivia, the independent expert on foreign debt and the Special Rapporteur on the right to health insisted that a conceptual differentiation needs to be made between stigmatization that is a social construct and discrimination that is a legal construct.

30. Regarding stigmatization of the poor, the International Federation of Social Workers suggested that certain outward appearances or certain types of behaviour, including theft, aggression and other forms of violence, do not exclusively characterize the poor or the extremely poor. The Equal Opportunity Commission of Hong Kong suggested that stigmatization based on social and income status should be specifically denounced. The South African Human Rights Commission stated that the draft guiding principles do not identify the entity responsible for punishing those who discriminate. The Governments of Costa Rica and Mexico and Care International mentioned the impact that means of communication and education systems has on discrimination and stigmatization processes.

31. The Government of the Philippines noted that paragraph 12 could be expanded to include a statement on affirmative action.

C. Section 2

Indivisibility and interdependence of rights

32. Light for the World remarked that paragraph 14 should include a reference to all human rights also being “interrelated”, as spelled out in the Vienna Declaration and Programme of Action. Arne Tostensen noted that, while recognizing the coherence of the human rights regime, it should not be overlooked that in real life situations difficult trade-offs have to be made. The draft guiding principles should offer guidance on how such trade-offs can be made.

Civil and political rights

33. At the seminar, the Government of France stated that the subsection on civil and political rights needs to be further elaborated, in order to avoid creating the impression that the fight against extreme poverty has to do mainly with addressing economic and social rights. The independent expert on foreign debt stressed that the uneven treatment diminishes the significance of the principle of indivisibility. The International Labour Organization (ILO) and Joseph Ingram stated that freedom of association needs to be elaborated and specific guidance should be provided on how to remove obstacles that prevent the creation of advocacy organization and self advocacy.

34. In the consultation with people living in extreme poverty on the draft guiding principles, among the rights deemed of particular importance was the “right to possess official citizenship documents”. A more elaborate section on the right to identity was also suggested by the International Federation of Social Workers, HelpAge International and Sightsavers International, with specific reference made to the right of women in cases of female-headed households and of abandoned or unaccompanied children.

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

Right to justice

36. The independent expert on human rights and extreme poverty recommended amending the heading of the subsection on the right to justice to read “Access to justice, administration of justice and equality before the law”.

37. The National Consultative Commission on Human Rights (France) noted the recently adopted Optional Protocol to the International Covenant on Economic, Social and Cultural Rights as a very significant development in reinforcing the justiciability of all human rights. The need to include a reference to the Optional Protocol in the draft guiding principles was mentioned at the seminar by ATD and the independent expert on human rights and extreme poverty. The Government of Finland similarly suggested placing further emphasis in the draft

guiding principles on the justiciability of economic, social and cultural rights. Kamal Siddiqui, a member of the Committee on the Rights of the Child, recommended a provision addressing effective pro-poor justice at the grass-roots level, since the formal justice system is too costly for the poor to afford. The Special Rapporteur on indigenous people remarked that those living in extreme poverty should also have the opportunity to access traditional/customary legal systems.

38. It was noted that paragraph 40 provides for free legal assistance but fails to address the important issue of court fees in civil proceedings, which the poor often cannot afford. The Government of Belgium and the 2008 NGO Consultation proposed an explicit reference to the obligation of the State and the judicial administration to provide the possibility of legal redress.

39. The relevance of the right to information was mentioned by Joseph Ingram in the context of poverty reduction programmes. The Special Rapporteur on indigenous people recommended mentioning that the educational and public information programmes on rights and judicial proceedings be made available in the relevant indigenous or minority languages. Some participants¹⁶ suggested that the training programmes mentioned in paragraph 41 also target police officers and civil servants responsible for implementing the law.

Economic, social and cultural rights

40. Many respondents pointed out the lack of reference in section 2 to some social and economic rights of particular relevance to people living in extreme poverty. The Centre on Housing Rights and Evictions and the Secretariat of the Pacific Community remarked that while some attention is devoted to land rights, particularly in the subsection on the right to food, there is need to devote a separate subsection in the draft guiding principles to that issue, in particular as regards the rights of indigenous peoples, but also, in the view of the latter, with regard to women. Kamal Siddiqui advocated for the inclusion of a right to credit. Access to credit on easy terms should constitute a basic right of the extremely poor.

41. A large number of NGOs and academics emphasized the stark omission of the right to social security, with Professor David Gordon, of the University of Bristol, also remarking on the absence of any reference to ILO Convention No. 102 on Social Security. HelpAge International and Sightsavers International suggested that references be included to the effect that States should provide regular and predictable income in the form of non-contributory cash transfers to poor persons unable to make regular payments into national insurance or contributory pension schemes that would guarantee them an adequate standard of living, and that States unable to make such payments on their own be required to seek the assistance of the international community. Camilo Pérez Bustillo also noted the importance of referring to the right to an adequate standard of living.

¹⁶ ATD and the Comité Supérieur des Droits de l'homme et des libertés fondamentales Tunisien.

Right to food

42. Many respondents¹⁷ stated that the formulation of the right to food in paragraph 20 should be in line with Committee on Economic, Social and Cultural Rights general comment No. 12 (1999) and with the Food and Agriculture Organization Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security. The National Centre for Human Rights in Jordan, the Government of Colombia, the People's Advocate of Romania and Sarah Zaidi also made specific suggestions on the formulation of the right in the draft guiding principles.

43. Additionally, the Governments of Switzerland and Finland, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on indigenous people, Kamal Siddiqui, the South African Human Rights Commission, HelpAge International, Sightsavers International, Volontari nel mondo and the NGO Committee on Social Development made specific comments on issues such as the recognition of property rights for food security, security of tenure over land and other natural resources, discrimination and violence against female farm workers, recognition of the specific needs of women and girls concerning the right to food (i.e., during pregnancy), the prevention of discriminatory distribution of food in humanitarian responses, and the need for active participation in humanitarian programmes and international responsibilities in times of natural disasters.

Right to health

44. The independent expert on human rights and extreme poverty and the Tunisian Higher Committee on Human Rights and Fundamental Freedoms recommended that the heading of the subsection on the right to health be amended to read: "Right to the enjoyment of the highest attainable standard of physical and mental health". The Government of Finland expressed its hope for more specific operational guidelines for use by Governments. To those ends, the subsection on the right to health might mention a minimum level of gross domestic product that States should direct to health care. As stated by the World Health Organization (WHO) at the seminar, user fees are one of the main impediments for people living in poverty to access health care; therefore a minimum package that is free of charge and includes free family planning, maternal health, and child care, as indicated in the Convention on the Elimination of all Forms of Discrimination against Women, needs to be made available.

45. The Special Rapporteur on the right to health provided alternative language to make the paragraphs on the right to health more consistent with existing international standards and the Committee on Economic, Social and Cultural Rights general comment No. 14, and provided actionable suggestions on issues such as the right to association, stigma and international cooperation for assistance.

46. In addition, the Governments of Belgium, Colombia, Finland and the Philippines, the Equal Opportunity Commission of Hong Kong, the South African Human Rights Commission,

¹⁷ FAO, 2008 NGO Consultation, and Christophe Golay.

the Ukrainian Parliament Commissioner for Human Rights, Kamal Siddiqui, UNDP, HelpAge International, Sightsavers International, the International Federation of Social Workers and others made specific comments on issues such as the priority attention to persons living in extreme poverty in all health services, the protection of reproductive health rights of women, making an explicit reference to affordable (or free) health care, international assistance, the problem of trading in human organs, and the need for State regulation of private service delivery.

Right to drinkable water

47. The independent expert on the issue of human rights obligations in relation to access to safe drinking water and sanitation and the Centre on Housing Rights and Evictions suggested that the right be described as “the right to water and sanitation” and be harmonized with the Committee on Economic, Social and Cultural Rights general comment No. 15 and the Subcommission draft guidelines for the realization of the right to drinking water and sanitation.¹⁸ The Government of Italy and the South African Human Rights Commission proposed taking into account the recent report of the United Nations High Commissioner for Human Rights on the scope and the content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments (A/HRC/6/3), and emphasized the importance of the right to water as a self-standing human right and a global public good.¹⁹

48. The Governments of Colombia, Georgia, the Philippines, and Switzerland, UNDP, and the NGO Committee on Social Development raised issues relating to water affordability and access, as opposed to the provision of services “free of charge”, including in situations of natural disasters and floods, and the need to address broader environmental rights in the draft guiding principles.

Right to housing

49. As for the draft guiding principles as a whole, the subsection on the right to housing needs to be rendered consistent with existing international human rights standards and language. The independent expert on human rights and extreme poverty suggested that the heading of the subsection refer to the right to “adequate” housing. The Centre on Housing Rights and Evictions emphasized that the current text constitutes a radical break from the right to adequate housing as currently recognized under international law.

50. In addition, other respondents²⁰ expressed the hope to see more references and specificity on issues such as forced evictions, the destruction of informal settlements and security of tenure

¹⁸ The Government of Switzerland suggested the same at the seminar.

¹⁹ The Human Rights Centre of the University of Padova, Volontari nel mondo and Associazione ONG Italiane also called for the same.

²⁰ The Governments of the Philippines and Belgium, the International Federation of Social Workers, Care International and the South African Human Rights Commission.

in such settlements, and women's rights to inheritance. However, the Government of Georgia remarked that it would be more appropriate for States to play a facilitative role in promoting access by the poor to housing than to be obligated to guarantee such access, in particular in countries with weak or transition economies.

Right to education and culture

51. The independent expert on human rights and extreme poverty recommended amending the heading of the subsection on the right to education and culture to read: "Right to education and right to take part in cultural life". Additionally, the Governments of Belgium, Greece, Switzerland and the Philippines and the Tunisian Higher Committee on Human Rights and Fundamental Freedoms suggested including specific provisions on "youth" and "sport", the fight against school abandonment, access of migrants and persons with disabilities, women and girls, and other persons living in extreme poverty to all levels of education, the right to protect their culture and identities, and a broader definition of culture in line with the 2004 UNDP Human Development Report.

52. Joseph Ingram remarked that the draft guiding principles are inadequate in their treatment of girls, especially regarding their equal right to education. The Representative of the Secretary-General on the human rights of internally displaced persons noted the need to address what he characterized as the number one obstacle for the poor; namely, the issue of school fees and the cost of books, uniforms, etc. Programmes such as school feeding or measures to provide schoolchildren with basic training materials could help to compensate for the loss of income or the additional expenses for the family resulting from school fees.

Right to employment

53. The independent expert on human rights and extreme poverty suggested amending the heading of the subsection on the right to employment to read: "Right to work". ILO reiterated the same at the seminar and added that just and favourable working conditions and freedom of association are some of the crucial issues for ILO in terms of guaranteeing the rights of the poor.²¹ The 2008 NGO Consultation reflected a preference for the heading "Right to employment, decent work and social security".

54. Other respondents made several remarks on issues pertaining to the elimination of child labour,²² forced prostitution, child prostitution and human trafficking,²³ safety nets and social

²¹ ILO volunteered to provide more coherent language on this section.

²² Kamal Sidiqqi, Care International, 2008 NGO Consultation, and consultation with people living in extreme poverty.

²³ The Special Rapporteur on torture, and consultation with people living in extreme poverty.

protection for those in the informal sector living in extreme poverty.²⁴ Furthermore, Arne Tostensen and the 2008 NGO Consultation indicated a need for more consistent reference to ILO labour Conventions, and State obligations on the right to employment.

D. Section 3

State obligations and international cooperation

55. The independent expert on human rights and extreme poverty and Wouter Vandenhoele noted that the subsection on international cooperation should be solidly grounded in the authoritative interpretation provided by the United Nations human rights treaty bodies and should draw on the body of scholarly work built up in this area. Attention was drawn to article 2.1 of the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights general comments 3 and 4, and relevant concluding observations of treaty bodies.

Duties and responsibilities of public and private entities in combating poverty

56. The independent expert on human rights and extreme poverty suggested that the subsection on duties and responsibility of public and private entities in combating poverty be entitled “Duties of non-State actors”. She highlighted that the draft guiding principles currently overlook the issue of responsibilities of national and transnational business enterprises. Although international human rights law traditionally binds States rather than corporations or business enterprises, there is growing evidence that international law in this area is moving to close this legal loophole and address issues of corporate behaviour and responsibility. The draft guiding principles have a role to play in providing suggestions as to how States can and should regulate when it comes to abuse by business enterprises.

57. She suggested that the draft guiding principles be rephrased so as to take into account doctrinal developments on the responsibility of companies and international organizations, among others, in their application to the issue of extreme poverty.

III. DISCUSSION ON THE WAY FORWARD

58. A discussion on the way forward with a view to adopting guiding principles on extreme poverty and human rights took place at the final session of the seminar. The Government of France, in its role as one of the co-sponsoring countries of resolution 7/27, proposed that the Human Rights Campaign mandate the independent expert on the question of extreme poverty and human rights to carry out a revision of the draft guiding principles, which would take into consideration the results of the consultations undertaken so far and the conclusions of the seminar. The independent expert could also decide to undertake additional final consultations, in

²⁴ 2008 NGO Consultation and David Gordon.

accordance with her own judgement. Any future Council decision on the way forward could be determined at a later stage, upon the submission by the independent expert of a revised text to the Council.

59. The proposal made by the Government of France met with the overwhelming support of the Governments that took the floor, namely, Belgium, Brazil, Chile, Peru, Switzerland and the Bolivarian Republic of Venezuela. CIVICUS and ATD, on behalf of a group of 11 NGOs, also endorsed the proposal.

60. In view of the unanimous response, the independent expert thanked all participants for their trust, while acknowledging the difficult task of consolidating so many rich comments and inputs. She indicated her willingness in principle to accept the task, should the Council so decide, with support from OHCHR, and expressed the hope to receive the cooperation and help of States, NGOs and other social movements.

Annex 1

LIST OF RESPONDENTS

Member States

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

United Nations agencies and intergovernmental organizations

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

United Nations treaty body experts

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

United Nations special procedures mandate holders

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

National human rights institutions and other national bodies

Canadian Human Rights Commission	1st consultation
Tunisian Higher Committee on Human Rights and Fundamental Freedoms	2nd consultation
National Consultative Commission on Human Rights, France	2nd consultation
Supreme Court of France	2nd consultation
Human Rights Commission of Malaysia	1st consultation
National Center for Human Rights, Jordan	2nd consultation
National Human Rights Commission of Mexico	1st consultation
South African Human Rights Commission	1st consultation
Office of the Ombudsman of Croatia	1st consultation
Ukrainian Parliament Commissioner for Human Rights	2nd consultation

Non-governmental organizations

Associazione ONG Italiane	1st consultation
Bahá'í International Community	2nd consultation
Care International	1st consultation
Caritas International	2nd consultation
Centre Europe-Tiers Monde	1st consultation
Centre on Housing Rights and Evictions (COHRE)	2nd consultation

Comité Quart Monde Européen	1st consultation
Equal Opportunities Commission	1st consultation
Franciscans International	2nd consultation
HelpAge International	1st consultation
International Catholic Child Bureau	2nd consultation
International Council of Women	2nd consultation
International Federation of Social Workers	1st and 2nd consultations
International Movement ATD Fourth World	1st and 2nd consultations
Light for the World	1st consultation
Lutheran World Federation	2nd consultation
Marangopoulos Foundation for Human Rights	1st consultation
Mouvement contre le Racisme et pour l'Amitié entre les Peuples	1st consultation
NGO Committee on Social Development	1st consultation
Pax Romana	2nd consultation
Romania Avocatul Poporului	2nd consultation
Sightsavers International	1st consultation
Volontari nel mondo - FOCSIV	1st consultation
World Alliance for Citizen Participation	2nd consultation
World Organization Against Torture	2nd consultation

Other relevant stakeholders

Arne Tostensen Dr., Chairman, Michelsen Institute	2nd consultation
Camilo Pérez Bustillo, Research Professor, Universidad Autónoma de la Ciudad de México	2nd consultation
Christoph Golay, Graduate Institute of Development Studies	2nd consultation
David Gordon, Prof., Townsend Centre for International Poverty Research, University of Bristol	2nd consultation
Edward Anderson, Dr., Lecturer in development economics, University of East Anglia	2nd consultation
Felix Kirchmeier, Programme Officer, Friedrich-Ebert-Stiftung	2nd consultation
Joseph K. Ingram, former World Bank Special Representative to the United Nations and the World Trade Organization	2nd consultation
Paula Silva Robledo, Expert in housing and urbanism	2nd consultation

Peter Townsend, Prof., London School of Economics and Political Science	2nd consultation
Rajat Khosla, Human rights lawyer, former senior research officer to the United Nations Special Rapporteur on the right to health	2nd consultation
Sarah Zaidi, Sc.D, Expert in health and human rights	2nd consultation
Treva Braun, Adviser on gender equality, Secretariat of the Pacific Community	2nd consultation
Wouter Vandenhole, Prof., University of Antwerp	2nd consultation

Annex 2

LIST OF PARTICIPANTS IN THE SEMINAR HELD ON 27 AND 28 JANUARY 2009 IN GENEVA

A. Participants

Member States

Albania	H.E. Mr. Sejdi Qerimaj Mr. Erwin Nina	Luxemburg	Mr. Jean Feyder Ms. Christine Goy
Andorra	Ms. Gesse Mas Montserrat	Morocco	Ms. Hassane Boukili
Argentina	Mr. Gonzalo Jordan	Netherlands	Mr. Marjanke Jager
Austria	Ms. Vannessa De Bock	Norway	Ms. Anne Viken
Azerbaijan	Ms. Samira Sajarova	Panama	Mr. Jorge Corrales
Bahrain	Mr. Ahmed Budoor	Peru	Mr. Carlow Sibille
Belgium	Mr. Hugo Brauwers	Philippines	Mr. Jesus Enrique Garcia
Chile	Mr. Alejandro Rogers Mr. Carlos Portales Mr. Luciano Parodi	Portugal	Mr. Pedro Rodrigues
Egypt	Mr. Ahmed Ihab Gamaleldin Ms. Heba Mostafa	Romania	Mr. Nicolae Blindu
France	Ms. Véronique Basso Ms. Cecile Vigneau	Singapore	Mr. York Chor Tan
Germany	Mr. Kajetan Pradetto	Switzerland	Ms. Natalie Erard Mr. Nicolas Chamorel
Ghana	Mr. Kwabena Baah-Duodu	Syrian Arab Republic	Mr. Abdulmonem Annan
Greece	Mr. Mario Lyberopoulos	Turkey	Mr. Ali Onaner
Haiti	Mr. Frantz Dorsainville	United Kingdom of Great Britain and Northern Ireland	Mrs. Rebecca Sagar Ms. Melanie Hopkins
India	Mr. Mozua Mopoliteno	Venezuela (Bolivarian Republic of)	Mr. Felix Peña
Ireland	Ms. Amy Mcardle	Yemen	Mr. Nagib Hamim Mr. Walid Alethary
Laos (People's Democratic Republic of)	Mr. Phay Phanthavone		

United Nations agencies and intergovernmental organizations

International Labour Office (ILO), Représentation Permanente de l'Organisation Internationale de la Francophonie, United Nations Non-Governmental Liaison Service (NGLS), United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), World Health Organization (WHO), World Trade Organization

Observers: European Commission, Holy See

United Nations treaty bodies experts

Mr. Kamal Siddiqui, member of the Committee on the Rights of the Child

Mr. Hatem Kotrane, member of the Committee on the Rights of the Child

United Nations Special Procedures mandate holders

Ms. Maria Magdalena Sepúlveda, independent expert on the question of human rights and extreme poverty

Mr. Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mr. Cephas Lumina, independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights

N.B.: Statement read on behalf of Ms. Gay MacDougall, independent expert on minority issues

National human rights institutions and other national bodies

Tunisian Higher Committee on Human Rights and Fundamental Freedoms

Consultative Council of Human Rights of Morocco

Egyptian Council for Human Rights

Iranian Islamic Human Rights Commission

Non-governmental organizations

Baha'i International Community, Basque indigenous people, Caritas internationalis, Centre de Formation et d'Appui aux Initiatives locales, Centre on Housing Rights and Evictions (COHRE), Centro Educativo social intetral nico Indigena (CESIDEI), CIVICUS, Forum Asia, Franciscans International, Geneva Institute for Human Rights, International Council of Women, International Federation of Social Workers, International Movement ATD Fourth World, Lutheran World Federation, Massai Experience, Michelsen Institute, Nurses Across the Borders, Organización Nación Aymara, Oxfam International, Pax Romana, World Alliance for Citizen Participation, World Organization against Torture

Other relevant stakeholders

Professor Arne Tostensen, Chr. Michelson Institute; Mr. Christoph Golay, Graduate Institute for Development Studies, Geneva; Mr. Joseph Ingram, Advisory Board of the Non-Profit Consulting and Support Group; Professor Peter Townsend, London School of Economics and Political Science; Ms. Mary Lou Ingram, former World Bank

B. Chairs and speakers

Chairs (by order of intervention)

Mr. Jean-Baptiste Mattei, Ambassador of France

Ms. Marcia V.J. Kran, Director, Research and Right to Development Division, OHCHR

Mr. Mac Darrow, Coordinator, Millennium Development Goals Unit, OHCHR

Ms. Magdalena Sepúlveda, independent expert on the question of human rights and extreme poverty

Mr. Anand Grover, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Ms. Maarit Kohonen, Coordinator, Human Rights and Economic Issues Unit, OHCHR

Mr. Sejdi Qerimaj, Ambassador of Albania

Mr. Hugo Brauwiers, Deputy Permanent Representative, Permanent Mission of Belgium, Geneva

Speakers (by order of intervention)

Ms. Kyung-wha Kang, United Nations Deputy High Commissioner for Human Rights

Mr. Alberto J. Dumont, Ambassador of Argentina and Vice-President of the Human Rights Council

Mr. José Bengoa, member of the Advisory Committee of the Human Rights Council

Ms. Magdalena Sepúlveda, independent expert on the question of human rights and extreme poverty

Mr. Alfonso Barragués, Millennium Development Goals Unit, OHCHR

Mr. Thomas E. McCarthy, Special Adviser, World Organization against Torture

Ms. Silvia Velasco Quispe, street vendor, Cusco, Perú

Mr. Bernard Mourgeon, Lyon, France

Dr. Margot E. Salomon, seminar rapporteur and OHCHR Consultant, London School of Economics and Political Science
