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**ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Human rights and extreme poverty**

**Report of the independent expert, Arjun Sengupta\***

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\* The reason for the late submission of this report is to reflect the latest information.

## Summary

In the present report the independent expert further explores the link between human rights and extreme poverty and aims at showing the distinct added value of looking at extreme poverty in terms of a violation or denial of human rights.

In section I, the independent expert describes the value added of looking at development in terms of human development and making the elimination of poverty an explicit objective of economic development.

In section II, he explains that viewing extreme poverty as a deprivation of human rights would add a further value to efforts to combat extreme poverty, making poverty eradication a social objective which would “trump” other policy objectives. The independent expert makes the case that, apart from appealing to moral entitlements to a life in dignity, it is possible to appeal to “legal obligations”, as poverty can be identified with the deprivation of human rights recognized in international human rights instruments.

In section III, the independent expert stresses that a distinct advantage of looking at extreme poverty is that it reduces the number of persons involved to a manageable subset of the population and focuses on the need to give priority to the poorest of the poor.

Referring to the distinction between “core rights” which a State needs to implement with immediate effect, and rights which may be implemented progressively over a period of time, the independent expert proposes that removing the conditions of extreme poverty should be treated as a core obligation which should be realized immediately and given the same high priority as other human rights objectives.

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## Introduction

1. At its fifty-fourth session, in resolution 1998/25, the Commission on Human Rights established the mandate of the independent expert on the question of human rights and extreme poverty. A.M. Lizin (Belgium) held the mandate from 1998 to 2004. The Commission, at its sixtieth session, extended the mandate for two years and appointed Mr. Arjun Sengupta (India) as the new mandate holder. Mr. Sengupta submitted his first report (E/CN.4/2005/49) to the sixty-first session of the Commission. At this session, the Commission, in resolution 2005/16, reconfirmed the mandate of the independent expert as set out in resolutions 1998/25 and 2004/23 and further invited him to “pay special attention to the concrete experiences of involvement of people living in extreme poverty in the political decision-making and social processes” and “to continue to focus on the various aspects of the link between human rights and extreme poverty” (paras. 11-12).
2. Since the late 1980s, when the issue of extreme poverty started to be examined by the United Nations system as a human rights issue, there has been an increasing recognition of the negative impact of poverty, and extreme poverty in particular, on people’s ability to enjoy basic human rights and freedoms. In 1987, at the forty-third session of the Commission on Human Rights, Father Wresinski, founder of ATD Fourth World, pleaded for focused work on extreme poverty and involving the poorest in a study that should be conducted to explore and define the linkages between human rights and extreme poverty. Subsequently, in 1989, at its forty-fifth session, the Commission on Human Rights for the first time discussed extreme poverty as a separate issue, affirming that “extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them” (resolution 1989/10).
3. In 1996, Leandro Despouy, Special Rapporteur of the Sub-Commission, submitted his final report on the issue of extreme poverty and human rights (E/CN.4/Sub.2/1996/13), clarifying how different forms of deprivation reinforce each other and form a vicious circle of poverty. In 2001, the Committee on Economic, Social and Cultural Rights issued a statement on poverty, defining poverty “as the lack of basic capabilities to live in dignity” and “as a human condition characterized by sustained or chronic deprivation of the 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).
4. In his first report to the Commission in 2005 (E/CN.4/2005/49), the independent expert built on preceding work on the link between extreme poverty and human rights, including that of the previous mandate holder, the Sub-Commission for the Promotion and Protection of Human Rights, the Commission on Human Rights, the United Nations Development Programme, (UNDP) the World Bank and world conferences such as the 1995 World Summit for Social Development. On the basis of the rich material available, the independent expert proposed a working definition of extreme poverty as a composite of income poverty (i.e. income below a minimum level barely sufficient to meet the basic needs), human development poverty (i.e. deprivation of food, health, education, housing and social security needed for any human development), and social exclusion (i.e. being marginalized, discriminated and left out in social relations), encompassing the notions of deprivation of basic security and capability.

5. In his first report, the independent expert explains the link between the realization of human rights and extreme poverty, and the importance of addressing the problem of extreme poverty through programmes designed in terms of human rights. He also makes general suggestions for targeted programmes to alleviate the conditions of people living in poverty, lacking essentially in income and human development and mostly excluded for participating in social interactions, paying special attention to the situation of women. In particular he highlights one kind of programme that can have a substantial impact on eradicating extreme poverty: employment generation, especially for the poorer sections residing in both rural and urban areas and mostly in the unorganized sectors.

6. Since his first report, the independent expert has undertaken a number of activities. He held consultations with representatives from the World Bank and the International Monetary Fund (IMF) during a mission to Washington, 7-11 March 2005. The meetings focused on the potential role of international financial institutions towards integrating human rights into poverty reduction efforts, particularly through the Poverty Reduction Strategy Papers (PRSPs). The independent expert also explored different areas of convergence between the work of the international financial institutions and human rights and a human rights-based approach to poverty reduction. In particular, he discussed the World Bank's approach to equity - the topic of the 2006 World Development Report - and the human rights elements of World Bank poverty and social impact analysis (PSIA). The meetings with the IMF and the World Bank were encouraging and revealed some openness to the integration of and consideration for human rights. The World Bank was particularly advanced in this regard. The meetings with the World Bank showed a convergence between the work and approach of a number of departments and the human rights approach and concrete suggestions were given as to areas where a stronger link could be made with human rights and a human rights-based approach to poverty reduction.

7. The independent expert also met with representatives of the World Bank, the IMF and the International Labour Organization (ILO) in Geneva in March, June and July 2005 to discuss the experience of these organizations in the area of social exclusion and the relationship between extreme poverty, social exclusion and employment. There was a convergence of views among the three organizations on the central importance of employment to poverty reduction. As the ILO documents in a number of recent reports and studies, low productivity, rather than high unemployment is a main obstacle to poverty reduction. The ILO World Employment Report 2004-2005 shows that 1.4 billion workers worldwide are caught in a "working poverty trap", supporting themselves and their families on less than \$2 a day. Representatives of the ILO noted that there was a need to boost productivity through ensuring access to markets and that State policies should focus on the situation of people living in extreme poverty.

8. From 24 October to 4 November 2005, the independent expert carried out his first official country mission, to the United States of America. The mission report illustrates that extreme poverty is not only a problem of poor developing countries, but a phenomenon that is found in most countries in the world. The United States is one of the wealthiest countries on earth but also has one of the highest incidences of income poverty among the rich industrialized nations. The mission report is presented to the Commission as an addendum to this report.

9. In the present report the independent expert further explores the link between human rights and extreme poverty, showing the distinct added value of looking at extreme poverty as a violation or denial of human rights.

10. Based on his findings, the independent expert recommends that the Commission on Human Rights adopt the following resolution/declaration:

Extreme poverty must be regarded as a denial of basic human rights, and all States, either directly or in cooperation with each other, must urgently take steps to eradicate extreme poverty from the face of the earth, as a “core” obligation to be carried out with immediate effect. For this purpose, each State must identify a small percentage (less than 10 per cent) of its population as the most vulnerable group suffering from extreme poverty, which is a composite of income poverty, human development poverty and social exclusion. Any person belonging to that group is either suffering from all of these forms of deprivation, or most severely from any one of them. This can be resolved by the fulfilment of the minimum level of some of the rights recognized in the international covenants. The cost of fulfilling these rights, in terms of resources and changes in legal and institutional systems, as necessary, must be borne by all States, superseding all other demands on them, and taking all steps needed through international cooperation to help any State making its best efforts to eradicate the conditions of extreme poverty.

#### **I. THE ADDED VALUE OF THE DIFFERENT CONCEPTS OF DEVELOPMENT**

11. The notion of extreme poverty has gained wide currency in recent years in the literature on development and international policies. In most discourses on development it appears that eradication of extreme poverty is accepted universally as the objective of all national and international policies, by all State authorities and international agencies. In today’s world of prosperity, growth and technological progress, the existence of extreme poverty is considered an affront to universal moral values, especially because a modest redistribution of the world’s wealth and income could eradicate such poverty. If the world were slightly more rational, and the ruling Governments of different nations were a little more cooperative with each other and willing to coordinate their actions, they could effectively abolish conditions of extreme poverty from the face of the earth.<sup>1</sup>

12. In spite of all this, poverty, and in particular extreme poverty, continues to plague the world. What can be done to change the situation? How can the world’s decision makers and policy authorities be persuaded to act in practice to realize the elemental moral objective of removing poverty, which they seemed to have accepted, at least in their public pronouncements and declarations? It is in trying to answer these questions that the notion of extreme poverty is being presented in the perspective of human rights.

13. There are many different ways of defining extreme poverty but the definition used by this independent expert in his first report was built on the earlier definition of extreme poverty as a lack of “basic security”. That definition combined the notions of income poverty, human development poverty and social exclusion. It can be shown that this definition is most suitable to be treated as the denial or violation of human rights which would call for carrying out the obligation of policy action of all agents in a national society and the international community to effectively eradicate all forms of extreme poverty. Defined in this manner, extreme poverty is a distinct value addition to the notion of poverty as discussed in the literature. Extreme poverty is not just a question of the severity and intensity of poverty; it is a notion that adds to policy implications that are not fully captured by the usual notion of poverty.

14. In the literature on development economics, the idea that the removal of poverty is the basic goal of development policy was itself a value addition to the prevailing notion of development. In the 1950s and 1960s, development was seen basically as a country's per capita income growth. Although from the early days of development thinking, economists and policy makers considered development as a process of improvement of the well-being of the people of a country, per capita income was seen as a proxy for the different elements of well-being. Its growth was accordingly seen as equivalent to the improvement of well-being. A variable such as income, which was essentially an instrumental variable, promoting different elements of well-being such as being well fed, being healthy, being educated, and having proper housing, was often taken as a substantive variable, being an objective in and of itself. Development policies were formulated with the dominant objective of maximizing the rate of GDP growth, or national income. Population growth was regarded as largely "exogenous", not dependent on economic policies.

15. It is true that a steady growth in per capita income is a necessary condition for the improvement of all the different constituents of well-being but it is not sufficient, especially if certain elements such as being healthy or being well educated are considered to be more important or more immediate than others. A policy for maximizing income growth does not take into account the problem of income distribution or allocation of resources to areas which may be socially more desirable than their market values. For example, the benefits of primary education, especially in rural areas, may be socially much more valuable than what the people who receive such education would be willing to pay. Therefore, the expansion of primary education or the salaries paid to primary teachers would be much less in a market economy even with a high growth of income than what would be most desirable according to social valuation. It will be necessary to adopt specific policies of market intervention to reallocate resources or to redistribute incomes, even in a rapidly growing economy. A policy of maximizing income growth alone will not be the policy to maximize the well-being of the people.

16. For several years, especially in the 1960s and 1970s, this concern with elements of well-being, which could not be secured by increased GDP growth, was accommodated by targeted expenditure of resources and provision of goods and services in an attempt to adjust the structure of economic activities of aggregate demand and supply to supplement the policy for maximizing economic growth. The World Bank's Minimum Needs Programme or the IMF's Structural Adjustment Facility were examples of policies in which economic development was still regarded as GDP growth, with complementary targeted policies built on it, without detracting from the long-term potential of growth.

17. It was only with the emergence of the human development literature that income growth was displaced from its role as an objective characterizing development and was relegated to its role as an instrument of promoting development. The improvement of well-being was seen as human development, measured in terms of achievements regarding the access and availability of certain basic facilities and services for all people, such as food, health, education and the welfare of women and children, as well as social security. Indicators were constructed to represent the different elements of human development and the UNDP's *Human Development Report* published the data regarding these indicators in all countries of the world, ranking them according to the stage of human development as an average of the different indicators. In carrying out these exercises, the UNDP, and later other national and international agencies,

had to be selective about the choice of the different elements of well-being, as well as the variables representing them, in accordance with the availability and quality of data in the different countries. For example, life expectancy and child mortality were used to represent improved health; or literacy and school dropout rates as a proxy for education. Similarly, other variables were used to represent different elements of human development for different countries.

18. In the construction of the human development index (HDI), the UNDP continued to use income as an indicator of all the elements of well-being which could not be captured by any specific index based on the available data for a country. The use of income was clearly stated as a matter of convenience and as a proxy for other substantive variables, which were the constituent elements of well-being. The role of income was not an objective in and of itself; it only stood for other constituent elements of well-being for which it was only one of the means or instruments.

19. It is in this sense that conceiving economic development as human development was a value addition to the earlier development literature. The policy that would have to be adopted to promote economic development as human development would have to be quite different from those realizing maximum GDP growth. They have to be addressed to the requirements of specific sectors, such as increasing life expectancy, providing nutrition, reducing child mortality or expanding literacy, primary education and protecting school enrolment, etc. All these would require creating specific institutions and ensuring participation in grass-roots development, which would call for major changes in the organization of different countries and their current structures of economic activities and institutions. These would be very different from policies that would raise the economic growth rate such as raising the rate of savings, inviting foreign savings to supplement domestic savings, raising the domestic rate of investment, attracting foreign direct investment and upgrading technology. Over a period, there was an increasing emphasis on liberalizing market forces and opening up foreign trade and investment to allow a fuller play of competition, raising efficiency of production and economic growth.

20. Although policies for promoting human development are quite different from policies designed to raise economic growth, they do not necessarily conflict with each other. The growth of income plays a significant instrumental role in promoting the different elements of human development, as all of them require increased availability of some related goods and services associated with improved, broad-based and equitable access to them. At any point in time, a growth in the overall stock of resources in a country facilitates both the increased availability of and improved access to any of the goods and services, although it is not impossible to achieve some improvement in both of them by reallocating the given resources among the different uses. It is primarily an empirical issue as the effect of an instrumental variable on a target depends on the context of an economy and its prevailing management of resources. In some cases even a small increase in income may have a substantial impact on the targets; and in other cases even a large increase in income may have no effect.

21. In principle, an increase in income is neither a necessary nor a sufficient condition for reaching the target, and all would depend upon supplementary economic policies. If appropriate policies are designed and implemented, human development outcomes can be improved by reallocating existing resources, changing existing institutions and resource management at



different levels of the economy. An increase in income will make implementation of such policies easier. But even without that, in many situations appropriate policies alone, with the reallocation of resources when necessary, can attain the target.

22. The human development approach to economic development not only relegates income growth to its instrumental role as supporting the improvement of different elements constituting human development, but it also highlights and emphasizes the role of economic policies and the concomitant role of policy-making institutions, such as the State and other corporate and non-corporate authorities. This is quite contrary to the paradigm of development built around the maximization of income growth as a development objective. In that paradigm, a complete liberalization and deregulation of market forces, both nationally and internationally, was considered both necessary and sufficient for achieving the objective through competition and increased efficiency of resource market allocation in accordance with comparative advantage.

23. The human development approach, on the other hand, looked mainly at the market's instrumental role. In most cases, a free play of market forces achieved efficiency and maximum production. But there are cases of market failure, when external intervention through appropriate policies may be necessary to correct those failures and then allow the markets to play their role as freely as possible. The success of these policies has to be judged not according to how free those markets are, but by the actual achievement of the objective of human development - not by the extent of the increase in the value of production or income, but to what extent increased income has facilitated the realization of human development.

24. The difference in the perspectives of the two approaches becomes even sharper when the removal of poverty is explicitly introduced as an objective of economic development. Poverty is the result of severe inequality of distribution, of income and human development. The poor are, in most countries, not only denied of a level of income barely sufficient to subsist with a minimum of essential needs for living but are also deprived of education, nutrition, life expectancy, health, shelter, sanitation and similar other elements of human development. The removal of poverty implies changing the pattern of this distribution, which would always require intervening in the market and reallocating resources contrary to simple policies of maximizing income growth.

25. Although several countries have experienced a reduction in poverty levels with a rapid increase in GDP growth, the policies required to achieve these objectives differ substantially and may sometimes conflict with each other. If income distribution did not worsen, any GDP growth would reduce the number of people living in poverty gradually, over a period time. But if GDP growth is accompanied by an increase in inequality, which is often the case with market-based acceleration of income growth, then poverty may actually increase. In such cases, a well-designed income redistribution programme would have to be adopted which would involve interventions in markets either in the increased production in sectors that raise the real income of the poor or in the provision of goods and services, food, health, sanitation or shelter that raises the real consumption of the poor. Taxes, subsidies and controls of production and distribution channels may be used for this purpose, targeting the poor. Clearly, a process of economic development that makes poverty reduction a principal objective would have to build on a development policy that would be much more than a policy to accelerate economic growth by incorporating policies of redistribution of income and restructuring of production.

## II. POVERTY SEEN FROM A HUMAN RIGHTS PERSPECTIVE

26. Even if there is a distinct value addition in the development discourse of looking at economic development in terms of human development, and with a primary objective of removing poverty, the next question is: What is the value addition of treating the elimination of poverty in the perspective of human rights? The question can be answered in two ways:

(a) What is a value addition in treating the fulfilment of any objective in terms of human rights; and (b) In what manner can poverty be described as a violation or deprivation of human rights and consequently, poverty removal as a human-right objective in itself.

27. When an objective of social arrangement is accepted as a human right, it implies that all agents of society would regard the fulfilment of that objective as a “binding” obligation, which supersedes all other policy objectives. All social objectives cannot be regarded as human rights and for that, we must apply what may be described as Amartya Sen’s “legitimacy” and “coherence” tests.<sup>2</sup>

28. The social objective must be of sufficient importance to form the constitutional norms of a society as standards of achievement, the realization of which would provide legitimacy to the behaviour of all agents and authorities, especially the State. The objective should also be “coherent” so that the obligations or duties that have to be carried out, and the agents who have to do so, can both be specified. If the objectives pass these tests and are recognized by society through a due process of norm creation, then all members of society would be obliged to carry out their specified duties. There may be several different social objectives, but the obligation to realize human rights “trumps” all others. Obligations would be binding on the agents in the sense that if an agent does not carry out the specified obligations, there would be a mechanism of reprimand and sanctions, inducing appropriate corrective or compensatory actions. If the obligations are incorporated into the domestic legal system, this mechanism would be “legal”, settled in the courts of law. If the rights are recognized in international human rights law, then States parties to international human rights treaties would be bound by this obligation.

29. As mentioned above, all social agents would have obligations to carry out specific duties but State authorities would be the primary duty bearers. It would be up to the State authorities to take appropriate steps for implementing the rights through direct action, or through implementing rules and procedures and adopting specific laws to induce other agents to adopt appropriate action. In addition to State authorities, all other States and members of the international community which recognize human rights would have the obligation to cooperate among themselves and take whatever action is necessary to realize the rights in all countries belonging to that community. Normally, other States and international institutions would provide assistance and take complementary action to help the national State authorities to realize the rights of their citizens. In certain situations, and by following appropriate procedures, other State members of the international community can supersede the national State authority and directly help citizens realize their rights when these national States fail to fulfil their obligations or act against their citizens.

30. From the above description of recognizing a social objective as a human right, it should be clear how significant a step forward it would be to alleviate poverty, if poverty could be appropriately identified as a human rights violation. In that case, poverty alleviation could be equated to redressing that violation and fulfilling those rights. First, State authorities in countries where people live in poverty would be obliged to design and implement appropriate policies to remove poverty. Secondly, among all the alternative policy goals, the removal of poverty should receive the highest priority. Thirdly, the international community, donor States, international institutions, multilateral institutions and multinational corporations would have to cooperate to enable nation States to implement anti-poverty programmes.

31. It is basically the “obligations” that are entailed by the “human rights” whose deprivation is recognized as poverty that changes the nature of the discourse of economic development, which makes poverty removal a principal objective. Since all agents of a society share the obligation to help realize that objective as a human right, the State authority, as the primary duty bearer, could quite legitimately invoke the active contribution and involvement of all or most of them and design appropriate tax subsidies and expenditure policies. Very seldom can State authorities plead helplessness or the inability to carry out those policies because the State can formulate laws and enact rules and procedures that are binding on all members of the society. They could involve grass-root organizations and work out participatory development programmes that have a much greater chance of success than top-down bureaucratically administered policies. For most poor countries, one could always find some feasible anti-poverty programmes. What is lacking in those countries where such programmes are not implemented is the political will of State authorities and the inability to involve different agencies and people in participatory, ground-level development.

32. The characterization of human rights obligations that makes it trump other obligations regarding social policies, giving it the first priority among all policy actions, implies that the authorities must be able to withstand the trade-offs between different interest groups benefiting from all its actions.

33. Given the limited stock of resources at a given time, following one objective would mean less achievement of other objectives, and therefore dissatisfaction of some lobbies or groups pressing for those objectives. It is not necessarily the cost of resources that prevents the prioritization of poverty eradication among the different objectives of a State. Compared with the cost resources and efforts to pursue most of the objectives of a modern State, including that of the military, internal security and supporting a bloated bureaucracy at all levels, in addition to servicing special lobbies, the expenditure on poverty alleviation would often be rather small, and would seldom be regarded as beyond a country’s means. The strength of the political lobbies supporting the different objectives determines the policy priorities of the different States. Accordingly, the highest priority for poverty eradication would be the direct result of the State’s recognition of human rights and seeing poverty as a deprivation of those rights. Accepting poverty removal as a human rights objective provides the ground for rearranging priorities and settling the trade-off between different interest groups. To allow an effective implementation of a poverty removal policy using whatever resources are required would require a social consensus, whether generated internally or derived externally from the membership of the international community that has accepted the human rights law.

34. The obligation of State parties for implementing poverty removal programmes in the human rights perspective changes the character of State involvement in the economic and social arrangements and the State may intervene whenever necessary. In a human rights regime, States would be subject to monitoring and continuous review by civil society and human rights institutions. This would imply that all parties concerned must embed State intervention in a mechanism that ensures participation and the State would be held accountable for all its actions. This role of the State is different from its traditional *dirigiste* role. The State plays its role as a party to human rights-based social arrangements, on equal terms with civil society and grass roots-level organizations.

35. The obligation of the international community to cooperate to enable the realization of human rights would strengthen the case for treating poverty removal as a human right objective, as it would clearly increase the likelihood of implementing poverty removal policies. If such policies are technically feasible, which almost invariably they can be, the only reason why they may not be implemented would be that the dominant interest groups in the country are unwilling to accept even the modest sacrifice of their interests that would be implied by the redistribution of resources to follow the priority accorded to poverty removal policies. The international community, by providing assistance and framing favourable rules of the game of trade and financial transactions, could reduce the burden of adjustment in State policies. Often that may be sufficient to fully implement poverty removal policies if the State parties concerned make their best effort towards their implementation.

36. All these discussions should be able to establish the value added in treating a social objective as a human right and the increased likelihood of achieving that objective through the fulfilment of the obligations entailed by that human right. The next question that needs to be answered now is in what manner poverty can be described as deprivation of human rights, or poverty alleviation can be taken as fulfilment of human rights objectives.

37. The conceptual ground of that argument can without much difficulty be established following Amartya Sen's capability approach explaining the notion of human development. For Sen, development is essentially an expansion of capabilities, with capability defined as a person's ability to lead a life of freedom, or as Sen puts it, "the opportunity to achieve valuable combinations of human functionings: what a person is able to do or be".<sup>3</sup> Human development indicators represent different aspects of that capability, such as the freedom to be well fed and well nourished, to be healthy, educated and adequately sheltered.

38. When development is seen as human development or expansions of capabilities, its objectives are described in terms of freedoms, which are goals universally accepted as desirable values comparable to human rights. However, that does not automatically make development objectives equated to human rights. There are a number of steps before such "freedoms" can be elevated to "rights". As Sen puts it, "rights involve claims (specifically claims on others who are in a position to make a difference)" and "freedoms are primarily descriptive characteristics of conditions of persons".<sup>4</sup> Society has to recognize certain freedoms to be enjoyed by its members as a fundamental value or norm, binding them in the society and claimed by them as "rights". These freedoms have to be universal, enjoyed by all equally and without discrimination. They must, as we discussed earlier, fulfil the criteria of "legitimacy" and "coherence", and they must be claimed following "due" procedures, through an accepted "norm-creating" process.

39. In human development literature, poverty has often been described as a lack of capability, or inability to be free from hunger, malnutrition, ill health, illiteracy or ignorance. Such capability deprivation can lead to conditions of severe lack of “dignity” of the people suffering from such deprivation. Conditions of lacking human dignity are similar to the conditions of lacking human rights but the two are not the same. If human rights were fulfilled, people would not lack dignity. But even if there is no lacking of dignity, one cannot claim that human rights are fulfilled. Even when poverty is reckoned as a lack of capability or absence of many forms of freedom, it cannot be equated with the conditions of lacking in human rights.

40. To be described as conditions of deprivation of human rights, the freedoms that are denied under poverty must be identified as freedoms that are claimed as human rights. Human rights seen as ethical demands or moral entitlement to conditions of a life with dignity can take us some distance in demanding appropriate actions in a society to resolve the problems of poverty. Moral suasion, public scrutiny or civil society mobilization can often put sufficient pressure on the decision-making authorities in a society to take appropriate action. However, in order to appeal to “legal obligations”, poverty must be identified with the absence of deprivation of human rights that have been recognized “legally” through international human rights laws or national domestic legislation.

41. It so happens that the fulfilment of most of the human rights that have been recognized in international human rights laws through the covenant on economic, social and cultural rights and on civil and political rights can be described as the basis of conditions of life without poverty. If these rights, such as the right to food, health, education and an adequate standard of living are fulfilled, it is difficult to imagine that society will still have conditions of poverty. This does not mean that poverty is to be defined as the absence of human rights, as these two concepts are not equivalent. If rights are realized, there may not be any poverty, but even if there is no poverty in a society there could be violation or denial of some human rights. So long as it is true that the realization of recognized human rights would eliminate the conditions of poverty, the society may concentrate on a poverty alleviation programme in terms of fulfilment of human rights. It may not even be necessary to put equal emphasis on the fulfilment of all the rights. If all rights are realized, there will not be any poverty. But it is also possible that if some, but not all rights are realized, the conditions of poverty would be alleviated.

42. An effective poverty alleviation programme in a country can therefore be built upon a policy for the realization of human rights as they have been recognized by the two covenants in the international human rights law. As discussed earlier, the main advantage of this approach is that the notion of obligations can be invoked. If a programme for the realization of human rights, especially one with a direct bearing on the removal of poverty, can be designed in a technically feasible manner and for which both the responsibilities of the duty bearers and the nature of their duties can be specified, it can be implemented in accordance with human rights obligations. States parties would be the primary duty bearers responsible for designing the programmes, inducing other agents to do what is necessary for implementing them by means of incentives and disincentives, laws and procedures and by changing institutions. They are also directly responsible for implementing those programmes. The international community of other States, the donor community, international agencies and multinational corporations should also take the responsibility of doing whatever is necessary to promote the realization of these rights either directly, or more often, in cooperation with State parties.

43. It is legitimate to ask the question: In spite of the fact that the aforementioned international covenants have almost been universally accepted, why have programmes not been worked out along these lines to remove poverty from the face of the earth? It would be difficult to argue that poverty alleviation programmes have not worked because appropriate programmes cannot be designed or are not technically feasible. Whatever the conditions of the international economy in earlier years, the world has reached a stage of development and expansion of resources in which poverty alleviation can no longer be considered as difficult or beyond the reach of most countries. The only reason why such programmes have not been adopted is that countries have shown no political will to adopt them or have not accepted their "obligations" that would follow from their legal recognition of the relevant human rights.

44. Several reasons can be given for this situation. First, the international covenants, as they have been instituted, do not have appropriate mechanisms of enforcing the related obligations. They have not been made "justiciable", nor are the treaty bodies able to enforce these obligations on the States that are recalcitrant in fulfilling the terms of the treaties. Very few States, even after formally ratifying the covenants, have incorporated them in their domestic legal system or have taken steps to implement them through alternative mechanisms of checks and balances.

45. Second, some of the major donor States have not fully ratified these covenants or, even when they have formally recognized these rights, they have not accepted all the relevant obligations. Sometimes they have alleged that some of these rights are not defined precisely, and are supposed to be realized progressively because of resource constraints and do not establish clear obligations.

46. Third, there are problems of creating the grounds in a country to generate the political will necessary to recognize and carry out the obligations following from the international human rights laws. There are three main sources of international human rights law and concomitant obligations. First is the international treaties, which have their own methods of monitoring obligations. Second are general principles of law that are accepted by a society as fundamental values that keep the society together. Therefore obligations following from these principles are accepted as binding on all members of the society, even if there is no international treaty or law that explicitly recognizes or specifies those obligations. The third source is what is known as customary international law, that is legal norms which have become widely accepted as legally binding in practice and through commitments expressed by Governments. These norms become binding upon Governments and acquire the force of international law even if they are not codified in treaty form.

47. Although the international human rights community has made many attempts to appeal to these sources of international law for recognition of these rights and their corresponding obligations, especially those related to the removal of the conditions of poverty from the world, most Governments have not found these acceptable. In view of this, the notion of extreme poverty can be proposed as a concept that would be much more acceptable to the international community of States in terms of the obligations which can effectively remove those conditions and which can be more plausibly regarded as consistent with human rights norms.

### III. THE NOTION OF EXTREME POVERTY

48. The principal value added in the notion of extreme poverty as a denial or violation of human rights is its ability to justify the obligations that it would entail on all the duty bearers. For that, extreme poverty will have to be defined, just as poverty will have to be defined, in terms of rights, the denial of which create the conditions of extreme poverty or poverty. Indeed, extreme poverty, as the term suggests, would be regarded as an extreme form of the conditions of poverty. The value added comes from the notion of extreme poverty having a greater responsibility for all agents in a society recognizing human rights. In other words, by concentrating on extreme poverty, it should be possible to invoke the associated obligations more generally, with the duty bearers finding it difficult or improper to reject the appeals to the related obligation.

49. As discussed in the previous sections, poverty, in order to invoke the applicability of obligations that are legally binding on the duty bearers, has to be defined as the denial of rights that have already been recognized in international human rights law. Since the International Covenant on Economic, Social and Cultural rights has accorded this legal recognition to notions such as the right to food, health, education, social security and an adequate standard of living, and the International Covenant of Civil and Political Rights has recognized the right to association, information, freedom of expression, etc., it is not difficult to define poverty in terms of the denial of all these rights. If, in a social arrangement, these rights are fulfilled, it is difficult to imagine that there will be any poverty in the society. In that sense, denial of these rights can be regarded as equivalent to the conditions of poverty.

50. It may not always be possible to go beyond the notion of denial to asserting that poverty is a violation of human rights because the absence of those rights may be the result of existing social arrangements for which no individual party can be blamed or held accountable. To move beyond the notion of denial and to claim that poverty is a human rights violation, one has to go several steps in the chain of arguments. First, concrete programmes of action which can alleviate poverty must be identified. Then they must be proven to be not only technically feasible but institutionally implementable, with some minor, but well-specified processes of institutional and legal reforms supported by international assistance, both in terms of resources and rules and procedures of international transactions. In addition, it is necessary to identify the duty holders and their specific duties, which, if carried out fully, would implement those programmes. The notion of violation by those duty bearers would only be relevant if, in spite of knowing what to do to alleviate the conditions of poverty, they would not be doing anything to carry out their duties. This would mean that the duty bearers have some alternative policy preferences or interests which they consider more important than trying to alleviate poverty. Therefore, even if they do not have a direct responsibility for creating conditions of poverty, or any motivation that can be regarded as legally culpable, it would be possible to say that the duty bearers are violating their obligations to fulfil the rights and therefore should be held accountable for their violation.

51. The discussions of perfect and imperfect obligations, which Amartya Sen used by invoking the Kantian concepts, can be directly applied in this situation. State parties have the perfect obligation to fulfil the rights that can alleviate poverty. They can formulate programmes, reallocate resources from among alternative policy objectives and invoke the imperfect

obligations of all other agents in the society who are obliged to help and do something if they are called upon for fulfilling those rights. State parties can impose taxes, fees and regulatory procedures restricting the behaviour of individuals, including the functioning of multinationals within State borders. They could also directly engage in the provision of services that contribute to the fulfilment of those rights. Furthermore, State parties can enter into negotiations with the international community, other States, donors and creditors, as well as the international institutions overseeing finance and trade to help them implement their programmes.

52. Agents of the international community have both perfect and imperfect obligations. There are several actions undertaken by these agents which directly affect the conditions of poverty, such as extraction of debt repayment when the parties are completely insolvent, enforcing intellectual property rules that raise the cost of essential items for the poor and having a trade regime that discriminates against the realization of appropriate values for goods produced by the poor. If an action of an agent directly results in creating the conditions of poverty, then that agent has the perfect obligation to desist from that action. This would mean that those agents would have to reorganize their priority objectives and accept that the removal of poverty is an objective that supersedes all other policy goals. That is the implication of recognizing a human right, and if the international community recognizes poverty as a denial of human rights, it should not be possible for these international agents to refuse to accept that responsibility. But, in addition to such perfect obligations, the members of the international community also have imperfect obligations, meaning that they could take actions in their respective fields, which may not impact much on conditions of poverty if looked at in isolation from each other, but which may have a substantial impact if they are coordinated. State parties, who are the primary duty bearers, and some of the major parties of the international community, whether the Bretton Woods institutions or the major donors, may have to play the role in situations of designing and implementing a coordinated programme of action that would convert these imperfect obligations into actions that directly impact on the alleviation of poverty.

53. The problem in all these formulations is that, even if it is logically possible to argue that if poverty is defined in terms of denial or violation of human rights the obligations associated with those rights would improve the likelihood of State parties and the international community implementing those policies, in the practical world it depends very much upon the State parties accepting their obligations for fulfilling the rights as legally and morally binding. It is not difficult to work out methods to monitor these obligations and mechanisms to reprimand those who do not fulfil their obligations, or to compensate the right holders whose rights are not fulfilled. It is not necessary to depend on justice in courts of domestic or international law. There can be treaty bodies, international organizations and mechanisms, as well as domestic national human rights monitoring institutions - all of which can be complemented by public action and mobilization by non-governmental organizations. However, the willingness of State parties to accept these obligations as binding upon them is essential.

54. There are several States which have not yet fully ratified the international human rights conventions, and even those States which have ratified have failed to incorporate them into the domestic legal system or submitted themselves to respond to international criticisms. One example is the position taken by the United States of America, which has not accepted economic, social and cultural rights as legally valid rights.



55. A detailed analysis of the position of the States and institutions which do not accept such legally binding obligations would show that they do not truly deny the importance of human rights, or the value of these norms, providing legitimacy to a national community. In other words, they do not deny the morality of these claims, and may not object to these human rights being claimed as ethical entitlements of all civilized members of the community. Their objections are to accepting the legality of these rights. Until the human rights community can respond to these objections systematically, no amount of wishful thinking or rhetorical appeal to all these agents would realize these rights. In that case, claiming poverty as the denial of human rights will make little contribution to the actual alleviation of poverty.

56. What are the main objections to the legal status of these rights? These issues have been discussed exhaustively in the human rights literature. A few of these points can be used to sustain our argument. First, the argument that economic, social and cultural rights, which have a direct bearing on the conditions of poverty, are not properly defined, is no longer sustainable. The language of the treaties, the discussions that took place during their adoption and the general comments of the treaty bodies have clarified the nature of these rights in sufficient detail to bring out the full implication of accepting these rights. However, there is a point of contention about these rights which merit further consideration. This is the notion of progressive realization, which recognizes that the full realization of some aspects of economic, social and cultural rights may be constrained by available resources and may need to be realized over a period of time. Fulfilling specific targets over a period would entail identifiable obligations for different duty bearers. In actual practice, however, given the uncertainty in the course of implementing any programme, obligations associated with progressive implementation are sometimes claimed to be imprecise and difficult to render justiciable.

57. One response to such arguments would be to differentiate between rights which a society should accept as requiring immediate implementation and others which may be implemented over a period of time, through appropriate policies and programmes making maximum use of available resources. This has been recognized in the international human rights discourse as “core rights”. Human rights philosophers have talked about “basic rights”, such as life, liberty and basic sustenance, and those without which no other rights can be fulfilled. It is not that fulfilling such rights requires no resources; in fact, all rights require the use of resources even when States’ actions are limited to non-intervention and preventing third parties from engaging in activities that may violate those rights. The immediate nature of these obligations, for realizing the core rights, follows from the paramount nature of the urgency of fulfilling these rights, because there is an overwhelming consensus in society in favour of those rights. The legitimacy of both the States and the international community depends on the realization of these rights, and like requirements of defence and law and order, States regard the fulfilment of these rights as the first priority of all their actions.

58. In short, if a society accepts certain goals as a primary value to all members of society, then the obligations of fulfilling them would be accepted by State parties and all other agents as binding on them. The success of a notion of extreme poverty would then very much depend upon formulating these principles in a manner that generates universal applicability. The description of extreme poverty suggested by the independent expert as a combination of income poverty, human development poverty and social exclusion would meet the requirements of such universal applicability.

59. In terms of the discussions on the nature of poverty, it can be argued that poverty has the characteristics of all three elements of deprivation: income, human development and inclusiveness in social activities. The total universe of the poor in a country should then be regarded as the summation of all three groups: those who are income poor, deprived of human development and socially excluded. One way of looking at extreme poverty would then be a portion of each of these categories selected in terms of extreme severity of the conditions of deprivation. In some countries, people below half the poverty line, as agreed upon in the country, or suffering from extreme deprivation of human development according to some criteria and similarly that of social exclusion, have been recognized as meeting the criteria for selecting the set of those living in extreme poverty.

60. That way of looking at it would be consistent with the independent expert's description of extreme poverty. However, the total universe of such extremely poor people can be very large in many developing countries and the society may choose a set of criteria that would limit the number of people suffering from extreme poverty to a smaller number of people who can be taken care of without an enormous cost of resources. For this reason, the independent expert has discussed extreme poverty in terms of an intersection of the three sets of people who are income poor, human-development poor and socially excluded. This means that a person suffering from extreme poverty would be suffering from a combination of all three categories of poverty. One advantage of this definition is that it not only makes the number of people involved a manageable set in any country, but it also clearly brings out the severity of the form of poverty. To sum up, people suffering from extreme poverty would then be a small portion of the total number of people who are suffering from all forms of poverty and the severity of their conditions of poverty would be apparent to every member of society, inducing them to take action to eradicate those conditions.

61. In all countries, the religious texts or general descriptions of social values clearly appeal to the sentiments of all agents, in particular the Government and other State authorities, to take action to mitigate the conditions of poor people. In most societies, the Government and people in general have been taking actions to mitigate the conditions of poverty. That would qualify poverty eradication procedures to conform to customary laws.

62. The principal reason why poverty eradication has not become a general objective of social policy in all societies, superseding all other objectives, as the case would be for human rights norms, would be the unmanageability of the total number of people suffering from such poverty. The definition of extreme poverty set out in this report would meet this problem by reducing the total number of people affected.

63. There is another argument that would support the case to consider a small number of people affected by extreme poverty as equivalent to a human rights norm. This is the Rawlsian principle of justice which considers taking care of the welfare or "liberty" of the most vulnerable sections of society. This is perfectly consistent with the above-mentioned notion of extreme poverty defined as denial of freedom affecting a small fraction of the population. Most societies, particularly Western democracies, have in principle accepted these notions of justice. It should be possible then to appeal to their sense of justice and persuade them to accept the obligations associated with the removal of extreme poverty which makes a small section of the population extremely vulnerable, suffering from the loss of all liberties or freedom of action.

64. If the universe of people suffering from these conditions can be reduced to a smaller fraction of the total number of persons suffering from the conditions of poverty, according to the definition of extreme poverty adopted in this report, the size of the resource cost can be considerably limited. Indeed, all recent studies of the Millennium Development Goals or Poverty Reduction Strategies of the World Bank and the IMF would suggest that the actual cost of removing extreme poverty would be quite small. In most cases, especially of people suffering from human development poverty or social exclusion, it will be necessary to implement changes in domestic laws or institutions which do not have large resource costs. The argument that the costs of removing extreme poverty would be unmanageably large in the modern world is clearly not sustainable.

65. Reviewing the arguments that have been put forward by several developed countries, their main reservation to an open-ended obligation of poverty eradication is that such efforts may be wasted without the commitment of State authorities themselves to remove poverty in their countries. There is some merit to this concern. However, in a human-rights framework, the obligations of the international community are made conditional upon the carrying out of the obligations of States that are the primary duty bearers under human rights law. There are, of course, some situations in which conditions of poverty are the direct result of international economic and social transactions, such as unfair trade practices, extreme forms of debt burdens or intellectual property rules, making the essential requirements of the poor too expensive. In these situations, the donor community and international agencies must take actions to correct those conditions, irrespective of the actions of States. In most other situations, the assistance of the international community would be dependent upon steps taken by States themselves.

66. In a recent paper, Philip Alston appreciates the logic of this argument. As he points out, "It will be difficult for countries to insist that they have persistently objected to such an evolution if they continue to affirm in so many contexts their commitment to assisting developing country governments to achieve targets as tangible and clearly achievable as the Millennium Development Goals. The correlative obligation would, of course, be confined to situations in which a developing country had demonstrated its best efforts to meet the Goals and its inability to do so because of a lack of financial resources. At that point it would have a plausible claim against the wealthy countries as a group and the argument would be that each of the latter would at least have an obligation to ensure that the assistance required is forthcoming, whether from one country acting alone, from a group of like-minded countries, or from an institutional fund identified by those countries for that purpose".<sup>5</sup>

67. In that context, Alston refers to one example of an approach to international cooperation based on international human rights laws: "One illustration of this approach is the proposal emanating from the United Nations Commission on Human Rights' former independent expert on the right to development, Arjun Sengupta, in which he proposes that 'development compacts' would be drawn up between developing countries and an unspecified and presumably largely self-identified group of donors. As long as the former fulfil their rights-based commitments to the best of their ability and capacities, the latter group would undertake to mobilize the necessary resources. Thus, a given country would propose a programme outlining both what needs to be done overall and what the country itself can achieve, while a 'support group' would 'examine the obligations specified and decide on burden-sharing among the members of the international

community' to provide the needed assistance. The scheme would enable the developing country, once it had satisfied its own commitments, to invoke certain 'callable commitments' which would have been made in advance and made dependent upon the required progress by the government concerned."<sup>6</sup>

68. The reference to the Millennium Development Goals in the above quotation of Philip Alston can be, without any loss of reasoning, replaced by our objectives of removing extreme poverty. In fact, by concentrating on a much smaller universe of people, compared to all the poor people in the world, the appeal of the argument for solving the problems of extreme poverty would be much stronger. Clearly, if the international community decided to act, it could do so without much problem.

69. It is in this context a further proposal can be made: removing the conditions of poverty should be treated as a "core" obligation which should be realized immediately and not subjected to progressive realization. In other words, the removal of extreme poverty should have the same standing as that of most human rights objectives. Resource costs would be manageable, national States must be able to introduce changes in their legal and institutional systems and the international community must be prepared to adjust the rules of trade, debt and financial transactions and be prepared to provide assistance to countries carrying out their national obligations to remove extreme poverty.

#### IV. CONCLUSION

70. **It has been argued in this report that the international community must accept the eradication of extreme poverty as a human rights obligation. The definition of poverty will have to be in accordance with the consensus of the different countries concerned. The predominant consideration would be to choose a small section of the population which is clearly and demonstrably most vulnerable to suffering from all forms of deprivation. Since poverty is defined as the sum total of income poverty, human development poverty and social exclusion, extreme poverty would be regarded as an extreme form of that poverty. That form can be most conveniently defined as an intersection of all three types of poverty. In some countries, however, especially those which are relatively developed and may not have the severe problem of either income poverty or human development poverty, the group suffering from social exclusion may dominate the set of extremely poor people, supplemented by conditions of income and human development poverty to the extent that they exist. The idea is to identify as extremely poor any group whose number is limited so that the society does not find it unmanageable to deal with their problems. Once such a group is identified, the removal of their conditions of extreme poverty must be taken as an obligation corresponding to the fulfilment of human rights norms. Even if the countries concerned may not be able to ensure the realization of all human rights, those rights the denial of which have directly caused extreme poverty, should be subject to immediate fulfilment. The international community and all member States should thus take up the obligations for removing extreme poverty as a core element of their human rights obligations.**

### Notes

<sup>1</sup> Thomas Pogge has estimated that the cost of lifting all the world's poor above the poverty line would be roughly 1 per cent of the world's GDP, based on data from 2002. Today, with a much larger world GDP, the cost would be even less. See T. Pogge, "World Poverty and Human Rights" in *Ethics & International Affairs*, vol. 19, No. 1 (Spring 2005).

<sup>2</sup> These terms are based on Amartya Sen's description of human rights in his book, *Development as Freedom* (2000) and were included in my reports as independent expert on the right to development, specifically the first and second reports.

<sup>3</sup> A. Sen, "Elements of a theory of human rights", in *Philosophy and Public Affairs*, vol. 32, No. 4, 2004, p. 332.

<sup>4</sup> Ibid, p. 328.

<sup>5</sup> P. Alston, "Ships Passing in the Night: The Current State of Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals" in *Human Rights Quarterly*, vol. 27, No. 3, August 2005, p. 778.

<sup>6</sup> Ibid, p. 777.

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