



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the UN Commission on Human Rights  
62nd Session and Human Rights Council 2<sup>nd</sup> Session

The independent expert on human rights and extreme poverty<sup>1</sup>

Mandate holder

Arjun Sengupta.

Mandate

The mandate was established in 1998<sup>2</sup> to evaluate the relationship between the promotion and protection of human rights and extreme poverty and to make recommendations and proposals in the sphere of technical assistance. The independent expert is supposed in particular to take into account the obstacles encountered and progress made by women living in extreme poverty as regards the enjoyment of their fundamental rights as well as the outcome of the World Conference against Racism and the World Summit on Sustainable Development. The mandate is carried out through country visits and consultations with men and women, living in extreme poverty and the communities in which they live, on ways of developing their capacity to express their views and organise themselves, also involving national human rights bodies in this exercise. The independent expert has also been asked to work on the contents of a possible draft declaration on human rights and extreme poverty.

Activities

- Annual report;
- Mission to the United States of America from 24 October to 4 November 2005;
- The independent expert held consultations with representatives from the World Bank and the International Monetary Fund (IMF) and the International Labour Organisation (ILO).

Annual report<sup>3</sup>

### Scope

The report outlines the added value of different concepts of development and poverty seen from a human rights perspective and reviews the notion of extreme poverty in this regard.

### Summary and key conclusions

#### **The added value of the different concepts of development:**

The independent expert has proposed a **working definition of extreme poverty**<sup>4</sup> as a composite of income poverty, 'human development poverty' and social exclusion, encompassing the notions of deprivation of basic security and capabilities. This definition recognises extreme poverty as a violation of human rights, thereby implying policy obligations by national and international actors and represents a value addition to the notion of poverty. 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.

<sup>1</sup> Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

<sup>2</sup> Commission on Human Rights *Resolution 1998/25*.

<sup>3</sup> E/CN.4/2006/43, 2 March 2006.

<sup>4</sup> This definition can be found in E/CN.4/2005/49, 11 February 2005.

### **Poverty seen from a human rights perspective:**

The value addition of treating an objective of social arrangement as a human right is that it implies that all agents of society would regard the fulfilment of that objective a 'binding' obligation, superseding all other policy objectives. States would be the primary duty bearers in this regard and would be subject to monitoring and continuous review by civil society in their economic and social measures. Furthermore, all other members of the international community who recognise human rights would have the obligation to take whatever action necessary to realise these rights in all countries belonging to that community. It would therefore be a significant step forward to **identify poverty as a human rights violation** and the conceptual ground for doing this could be established following Amartya Sen's capability approach defining development as an expansion of capabilities. This allows for development objectives to be described in terms of 'freedoms', which are comparable to human rights but a number of steps are required before freedoms can be elevated to 'rights'. 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. The fulfilment of most of the human rights that have been recognised in international human rights laws through the *ICESCR* and *ICCPR* 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.

### **The notion of extreme poverty:**

Extreme poverty will have to be defined in terms of rights in order to justify the obligations that it would entail on duty bearers. To move beyond the notion of poverty as the denial of recognised rights and claim that poverty is in fact a human rights violation a number of steps are necessary, such as identifying concrete programs of action to alleviate poverty and identifying the duty holders and their specific duties. The problem with these formulations is that in the practical world, the willingness of State parties to accept these obligations is essential and several States have not yet fully ratified the international human rights conventions. The USA for example, does not accept economic, social and cultural rights as legally valid rights. The main **objections** put forward by States **to the legal status of these rights** include the argument that they are not properly defined and as they are progressive in nature, they are imprecise and it is difficult to make them justiciable. The definition of extreme poverty militates against such arguments because it meets the requirements of universal applicability and therefore calls for urgent implementation rather than a progressive one. The definition of extreme poverty in terms of an intersection of the three sets of people who are income poor, human-development poor and socially excluded also strengthens the case of defining extreme poverty as a violation of human rights by making the number of people involved a manageable set and countering claims that the cost of such an undertaking would be too large. In fact, all recent studies of the Millennium Development Goals, the World Bank and IMF would suggest that the actual cost of removing extreme poverty would be quite small. Another reservation put forward is that any efforts towards poverty eradication would be wasted without the commitment of State authorities themselves to remove poverty in their countries. This argument can be refuted by the fact that the human rights framework makes the obligations of the international community conditional on the States that are the primary duty bearers carrying out of their obligations.

### **Key recommendations**

The independent expert recommended that the **Commission adopt a particular resolution/declaration<sup>5</sup> identifying extreme poverty as a denial of basic human rights** and calling on all States to urgently take steps to eradicate extreme poverty, as a "core" obligation.

Mission to the United States of America<sup>6</sup>

### **Scope**

The report covers a mission to the United States of America (the USA) from 24 October to 4 November 2005, during which the Independent Expert held meetings with government representatives, civil society organisations working with and for people living in poverty, as well as with people living in poverty, notably in New York City, New Orleans and Jackson and the Delta region in Mississippi.

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<sup>5</sup> P.6.

<sup>6</sup> E/CN.4/2006/43/Add.1, 27 March 2006.

## Summary and key conclusions

- Despite being the wealthiest country on earth, the USA also has **one of the highest incidences of poverty** among the **rich industrialised nations**, demonstrating that extreme poverty is a societal problem irrespective of the level of income of a country.
- Poverty in the USA is not an individual issue, but rather a **systematic problem** linked to the **inability to participate** in economic and social activities in a meaningful way.
- The Supreme Court has held that welfare benefits are **statutory entitlements**, but the legislative tendency has been to limit such entitlements, reflected in the 1996 reform of the public social welfare program.
- There is no national anti-poverty legislation in the USA, only a **patchwork of different laws and programs** for families and individuals whose income falls below defined levels and who meet certain other eligibility criteria. These programs address aspects of poverty in a limited manner.
- While the number of Americans with disposable incomes below the poverty line reduced by 47 percent because of public income-support programs in 2003, **public assistance programs** are often seen to be overly complicated and difficult to navigate and people depend on community groups to act as intermediaries in this process. Studies have shown that full participation in existing programs would reduce the number of people living in poverty by 20 per cent, and those living in extreme poverty by 70 per cent.
- The **1996 public social welfare program** was successful in moving more people into employment and reducing the number of people living below the poverty line, but national poverty rate has been on the increase since 2000.
- The USA has an **official definition of poverty** and measures extreme poverty as income below 50 per cent of the poverty line. The official poverty line dates back to concepts and judgements made in the 1960s and it is argued that it does not reflect changes in American society and changing perceptions of what constitutes a minimum acceptable standard.
- The long-term trend shows a decrease in poverty by 9.7 per cent since 1959, but the incidence of poverty has been on the rise over the past years, with 37 million people living below the federal poverty line in 2004, of which 15.6 million lived in extreme poverty.
- There are **large disparities in poverty between regions, racial groups, genders and age groups**. 11.4 per cent of African Americans and 7.9 per cent of Hispanics lived in extreme poverty in 2004 compared to the national average of 5.4 per cent. Income poverty is significantly higher among children, and of all family groups, poverty is highest among those headed by single women.
- The incidence of other dimensions of poverty, including **food insecurity, health insurance coverage, and homelessness** have also been on the rise over the past years. Despite leading the world in health-care spending, key health indicators such as infant mortality are far below those that might have been expected for the USA's income levels.
- The poor are insecure and vulnerable and this was particularly evident in the cases of **Hurricanes Katrina** and Rita, where people left behind were largely groups that were extremely poor. Evacuees complained about a general lack of information about government programs available to assist Katrina victims and poor evacuees also felt that they did not fit into plans for a rebuilt New Orleans, as new housing would be too expensive for low-income families.

## Key recommendations

- The Independent Expert stressed the need for recognition of the conditions of extreme poverty in the USA as indications of the worst form of indignity inflicted on human beings, and a denial of human rights. A recognition of the problem would make it possible for US authorities to adopt programmes, based on human rights principles, which would contribute to the eradication of extreme poverty.
- The USA should adopt a **comprehensive national strategy** to substantially reduce poverty and eradicate extreme poverty.
- Social safety nets should be provided through **entitlement programs** and measures should be taken to **facilitate participation** in these programs, notably by simplifying cumbersome enrolment procedures.
- People living in poverty should fully participate in the design, implementation, monitoring and assessment of programs for combating poverty.
- The US authorities should, in cooperation with civil society and expert organisations, **identify a fraction of its population as suffering from conditions of extreme poverty**. Such extreme poverty should be defined in terms of a combination of income poverty, human development poverty and social exclusion.
- The federal government should carefully **re-examine the income poverty line** as it is defined today, but it is acceptable to continue to consider half of that poverty line as the line for extreme income poverty.

- The US authorities should then adopt **legislative provisions to accord them the legal entitlement to all the programs** that are needed, and individuals should be allowed to have recourse to the courts of law in case they are denied their entitlement.
- The states where the individuals reside would be responsible for ensuring the fulfilment of these rights, whereas the federal government would be responsible for providing the required assistance to the states.
- The authorities should establish a **monitoring mechanism** with regard to state responsibilities.
- The federal government should establish a **special fund** with the sole purpose of abolishing the conditions of extreme poverty.