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The Independent Expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights¹

Mandate holder

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Mandate

The current mandate was established in 2000² and pays special attention to the effects of foreign debt and the policies adopted to face them on the full enjoyment of all human rights, in particular economic, social and cultural rights in developing countries. The mandate focuses on new developments and initiatives taken by international financial institutions, UN bodies and intergovernmental and non-governmental organisations with respect to structural adjustment policies and human rights and measures taken by Governments, the private sector and international financial institutions to alleviate negative effects in developing countries. The independent expert has also been tasked to draft general guidelines to be followed by States and by private and public financial institutions in decision-making on and execution of debt repayments and structural reform programs to ensure that compliance with the commitments derived from foreign debt will not undermine the obligations for the realisation of fundamental economic, social and cultural rights.

Activities

- Annual report;
- Mission to Mozambique from 27 to 29 July 2005.

Annual report³

Scope

The report reviews recent development in debt sustainability issues and outlines some issues for further consideration in developing the draft general guidelines.

Summary and key conclusions

Recent developments with regard to debt sustainability:

- External debt of developing countries continues to rise, although at a slower pace;
- In 2005, the total number of decision point countries for the World Bank and International Monetary Fund (IMF) Heavily Indebted Poor Countries (HIPC) initiative was 28, for which nominal debt service relief of more than US\$ 56 billion has been approved, bringing down their debt stocks by two thirds and reducing their debt service payments by US\$ one billion annually. There is increasing recognition that HIPCs, including those that have gone beyond completion point, are falling short of their Millennium Development Goals (MDGs);
- Despite efforts for debt relief and calls for increased aid, net resource outflows from developing countries have continued;

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

² Commission on Human Rights *Resolution 2000/82*. In between 1998 and 2000, the mandate had the title of Independent Expert on Structural Adjustment Policies.

³ E/CN.4/2006/46, 2 March 2006.

- The report of the Commission for Africa called for 100 per cent debt cancellations as soon as possible for poor countries in Sub-Saharan Africa, especially where this is necessary to achieve the MDGs;
- The Group of Eight (G-8) leaders endorsed proposals to provide full debt relief for the HIPC countries that have reached completion point, as well as additional contributions to all recipients of the International Development Association (IDA) and the African Development Fund. The deal only covers 18 countries that have already met stringent IMF conditionalities, only refers to debt owed to IMF, the World Bank and the African Development Bank and it is not clear whether the deal will represent additional resources flowing to the countries concerned. The World Bank and the IMF have subsequently endorsed the G-8 proposal, but continue to discuss the modalities of its operationalisation under their respective institutional framework.

Rethinking the concept of debt sustainability:

A debt sustainability analysis plays a fundamental role in determining which countries are eligible for debt relief and how much relief they will be granted. The current macroeconomic approach used by international financial institutions, based on debt-to-export ratio, has been widely criticised as it has been argued that debt sustainability depends on a confluence of many factors. The International Conference on Financing for Development and the UN Millennium Project have pointed out the need to consider the impact of debt relief on progress towards the achievement of the MDGs when determining debt sustainability. The Secretary-General therefore proposed redefining debt sustainability as the level of debt that allows a country to achieve the Millennium Development Goals and reach 2015 without an increase in debt ratios. This proposal was supported by the 2005 World Summit in its Outcome document. The lack of appropriate indicators and methodology to measure the basic requirements for the realisation of human rights quantitatively also calls for the use of the financing needs to achieve the MDGs and related targets as proxy, since the Goals can be considered as important benchmarks and, viewed under the framework of Millennium Declaration, representing international commitments towards full realization of human rights.

Strengthening systematic coherence at national and international level:

Human rights principles such as indivisibility, non-discrimination, equality, participation and accountability could be the underpinning of improved policy coherence and international support for indebted countries. Good governance and the rule of law at national level, and transparency and democratisation in the financial bodies and institutions are also essential. In recent years, there has been a shift of emphasis in development cooperation towards greater country ownership, reflecting principles expressed in the *Declaration on the Right to Development* and the *Charter of Economic Rights and Duties of States*, mainly as a result of public pressures for the reform of conditionalities associated with structural adjustment programs. Uganda, one of the first countries to benefit from the HIPC initiatives, has since then elaborated its own national comprehensive strategy to fight poverty and reoriented its policies from structural adjustment to country-driven, pro-poor and participatory policies following an extensive national consultation process. The World Bank has also reviewed its adjustment lending, incorporating instruments that emphasise the importance of country ownership. Civil society has stressed that while the average number of conditionalities per lending may have declined, the actual burden on developing countries has not eased.

Key recommendations

- Increased **transparency** and **open dialogue** between Government departments, the legislature and the public is necessary before Governments commit themselves to large borrowings and the **capacity of developing countries** to conduct their own **independent assessment** and analysis of debt sustainability and ensure genuine country ownership should be strengthened;
- The general guidelines should include a **peer review mechanism** to determine, or provide alternative views on, a country's debt sustainability situation and the impact of external debt on human rights but a more **formal international mechanism** is also necessary in this regard;
- The Commission should extend the **time frame given for the elaboration of the draft of general guidelines** by one year and request that an expert consultation be organised again to discuss it;
- The Commission should urge States, international organisations, UN agencies, funds and programs, financial institutions and other relevant actors to **cooperate with the independent expert**;
- The Commission should request OHCHR to continue working on the issues of indicators and cooperate with the UNDP, the UN Department for Economic and Social Affairs, the World Bank and the IMF to **integrate human rights considerations into MDG-based assessment of debt sustainability**.

Scope

Mission to Mozambique from 27 to 29 July 2005, during which the Independent Expert met with senior government officials, the Deputy Chief Justice of the Supreme Court and key members of the Parliament, and held briefings and substantive meetings with the UN Resident Coordinator, as well as representatives from several UN agencies and civil society.

Summary and key conclusions

- Mozambique began accumulating substantial external debt in the late 1970s following independence from Portugal. Almost 20 years of civil war, as well as several natural disasters have also contributed to this process.
- Mozambique is now at a critical juncture in its development process. It has made important strides in achieving **economic growth** and **macroeconomic stability** and has successfully implemented structural reforms under the International Monetary Fund (IMF) program.
- This has allowed it to benefit from a series of **debt relief** and **rescheduling**, notably under the Debt Initiative for Heavily Indebted Poor Countries, thereby allowing it to increase its social expenditure. However, some of the conditionalities and measures taken under the structural adjustment programs in the past have not been without a large social cost.
- Despite this progress, Mozambique remains highly dependent on external assistance and faces **important challenges with regard to poverty reduction and human rights**. It remains one of the poorest countries in the world, ranking at the bottom of the Human Development Index.
- A lesson that needs to be understood therefore is that economic growth and macroeconomic stability are necessary, but not sufficient, conditions for poverty reduction and realisation of human rights.
- The prolonged civil war has had **devastating effects in terms of human development and capacity**, reflected notably in the gulf between general commitment to human rights and governmental capacity to protect them.
- While Mozambique has achieved a substantial reduction in poverty over the past decade, these are undermined by **slow progress in reform of the justice sector**, with problems including overcrowded prisons and limitations of formal and informal justice services at the local level.
- The **Government's poverty reduction strategies** have been embedded in a series of public policy planning instruments. The Five-Year Government Programme provides the overarching set of guidelines and development objectives, the Action Plan for the Reduction of Absolute Poverty (PARPA) provides planning in the medium term and there are annual Economic and Social Plans and assessments.
- **PARPA 2001-2005** aims at a substantial reduction in the levels of absolute poverty through measures to improve the capacities of, and opportunities available to, all Mozambicans. It highlights education and health as fundamental human rights and focuses on decentralization of and increased participation in the process of public administration, increased transparency, consolidation of democracy and respect for human rights, as means of **empowerment for the poor**.
- Mozambique is an instructive illustration of **innovative partnership** and **cooperation** modality between donors and the Government. Donors are increasingly participating in general budget support, thereby allowing national ownership of the development process. There are still problems however, including lack of harmonization between donors and weak governmental capacity for budget management.
- Mozambique **lacks monitoring and accountability mechanisms** in the national budgetary and development processes, and there is a need to focus on a rights-based approach. This problem is aggravated by the concentration in practice of responsibilities and authority in the Executive

Key recommendations

- **Human rights norms should guide and inform the implementation of the new cycle of PARPA.**
- Debt surveillances should be strengthened through **greater monitoring of public expenditure and new loan contraction.**
- **Monitoring and accountability frameworks should be further strengthened** by improving the engagement of stakeholders, particularly Parliament and civil society and adopting a rights-based approach to the public budget.
- A **national human rights commission** should be established in accordance with the Paris Principles.

⁴ E/CN.4/2006/46/Add.1, 27 March 2006.