



**Office of the High Commissioner for Human Rights**

**DRAFT GUIDELINES:  
A HUMAN RIGHTS APPROACH TO  
POVERTY REDUCTION STRATEGIES**



**United Nations**

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## Preface

Eradicating poverty must be our first goal in this new millennium. Governments have committed themselves to taking action through strategies and programmes which aim to reduce poverty and eliminate extreme poverty. The denial of human rights is inherent in poverty, something which is powerfully recorded in recent studies, such as *Voices of the Poor*.<sup>1</sup> Poverty cannot be banished without the realization of human rights. In the words of the Human Development Report 2000: “A decent standard of living, adequate nutrition, health care, education and decent work and protection against calamities are not just development goals – they are also human rights”.<sup>2</sup>

In a letter dated 6 July 2001, the Chair of the United Nations Committee on Economic, Social and Cultural Rights, asked the Office of the High Commissioner to develop guidelines for the integration of human rights into poverty reduction strategies. In response to this request, I asked three experts – professors Paul Hunt, Manfred Nowak and Siddiq Osmani – to prepare draft guidelines, and in the process to consult with national officials, civil society and international development agencies, including the World Bank. This publication contains the results of their work.

I have commented before that:

*“Lawyers should not be the only voice in human rights and, equally, economists should not be the only voice in development. The challenge now is to demonstrate how the assets represented by human rights principles, a form of international public goods, can be of value in pursuing the overarching development objective, the eradication of poverty.”*<sup>3</sup>

In elaborating the Draft Guidelines the authors have taken up the challenge of bridging the divide between a normative approach and a development economist’s approach to the concept and content of poverty. The text draws upon both the experience of the international human rights system over the last 50 years, and more recent scholarship by social scientists.

At the same time the experts have helped to clarify what a rights-based approach to development means in practice. The Draft Guidelines therefore contribute to a major task facing the United Nations, and in particular OHCHR, that of integrating human rights into all of the Organization's work, including the goal of eradicating poverty.

We are well embarked upon the United Nations Decade for the Eradication of Poverty (1996-2007). The General Assembly in establishing the Decade called upon “the United Nations system ... to participate actively in the financial and technical support of the Decade ... with a view to translating all measures and recommendations into operational and concrete poverty eradication programmes and activities”. It also urged “the strengthening of international assistance to developing countries in their efforts to alleviate poverty”. I believe the draft guidelines make a valuable contribution to realising the goals of the Decade.

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<sup>1</sup> Deepa Narayan (Dir.), *Voices of the Poor*, vol. I, II, III, World Bank, 2001 and 2002.

<sup>2</sup> UNDP, Human Development Report, *Human Rights and Development*, 2000 p. 8.

<sup>3</sup> “Bridging the Gap between Human Rights and Development”, Presidential Lecture, World Bank, December 2001, <http://www.unhchr.ch/development/newsroom.html>.

I hope also that the Draft Guidelines will strengthen implementation of the Millennium Development Goals. They provide ample illustration of how attention to human rights can reinforce each of the eight development goals.

National and international strategies addressing poverty reduction need to take into account the human rights dimension of poverty and its remedies. The draft guidelines are intended to assist countries, international agencies and development practitioners to translate human rights norms, standards and principles into pro-poor policies and strategies. I hope that they will become a practical tool to implement human rights approaches to poverty reduction at the country level.

I encourage governments, non-governmental organizations and international development agencies to test and pilot the Draft Guidelines, and to contribute what is learned from that experience when, as is proposed, they are reviewed in 2003.

  
**Mary Robinson**  
United Nations High Commissioner for Human Rights

10 September 2002

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Many organizations shared their data series and research materials: International Labour Organization, Food and Agricultural Organization, World Bank, World Health Organization, United Nations Educational, Scientific and Cultural Organization and Organization for Economic Co-operation and Development/Development Assistance Cooperation.

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On 23 April 2002, an informal consultation hosted by Overseas Development Institute (ODI) was co-organised by Minority Rights Group and Essex University's Human Rights Centre. OHCHR is grateful to the co-organisers and all participants.

On 19 and 20 June 2002, OHCHR organized an expert seminar to discuss a first draft of the guidelines. Participation included experts from human rights and development disciplines and from policy, research, operational, government and NGO backgrounds, as well as from a broad spectrum of international development agencies including the World Bank and IMF. OHCHR is grateful for valuable insights and concrete inputs provided by all participants.

Background studies were prepared on thematic issues related to human rights and poverty reduction, such as accountability and indicators, as well as human rights analyses of a number of countries experiencing poverty reduction strategies. These were contributed by Albert Barume, Judith Bueno de Mesquita, Maria Green and Alexis Kontos.

## **Abbreviations**

<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women
<b>CESCR</b>	Committee on Economic, social and Cultural rights
<b>CRC</b>	Convention on the Rights of the Child
<b>DAC</b>	Development Assistance and Cooperation
<b>HRC</b>	Human Rights Committee
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>MDGs</b>	Millennium Development Goals
<b>ODA</b>	Official Development Assistance
<b>PRS</b>	Poverty Reduction Strategy
<b>PRSP</b>	Poverty Reduction Strategy Paper
<b>TNCs</b>	Transnational corporations
<b>UDHR</b>	Universal Declaration of Human Rights

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**CHAPTER 1:**  
**INTRODUCTION TO THE  
DRAFT GUIDELINES**

## BACKGROUND

1. Since the reforms introduced by the United Nations Secretary-General in 1997, a major task for the United Nations, and in particular for the Office of the High Commissioner for Human Rights (OHCHR), has been to integrate human rights into the whole of the Organization's work, including the overarching development goal of poverty eradication. In 2001 the United Nations Committee on Economic, Social and Cultural Rights requested the Office of the High Commissioner "to develop substantive guidelines for the integration of human rights in national poverty reduction strategies". The present document is the outcome of that request.
2. Its objective is to provide practitioners involved in the design and implementation of poverty reduction strategies (PRS) with operational guidelines for the adoption of a human rights approach to poverty reduction. As it is widely accepted that poverty reduction strategies must be "country-owned", the project focuses on the preparation of operational guidelines for States that are integrating human rights into their poverty reduction strategies. However, it is hoped that the guidelines will also be of use to other actors – civil society organizations, national human rights institutions, the United Nations system and other international organizations – that are committed to the eradication of poverty.

## HUMAN RIGHTS APPROACH TO POVERTY REDUCTION

3. The essential idea underlying the adoption of a human rights approach to poverty reduction is that policies and institutions for poverty reduction should be based explicitly on the norms and values set out in the international law of human rights. Whether explicit or implicit, norms and values shape policies and institutions. The human rights approach offers an explicit normative framework – that of international human rights. Underpinned by universally recognized moral values and reinforced by legal obligations, international human rights provide a compelling normative framework for the formulation of national and international policies, including poverty reduction strategies.
4. One reason why this framework is compelling in the context of poverty reduction is that the norms and values enshrined in it have the potential to empower the poor. It is now widely recognized that effective poverty reduction is not possible without empowerment of the poor. The human rights approach to poverty reduction is essentially about such *empowerment*.
5. The most fundamental way in which empowerment occurs is through the introduction of the concept of rights itself. Once this concept is introduced into the context of policy-making, the rationale of poverty reduction no longer derives merely from the fact that the poor have needs but also from the fact that they have rights – entitlements that give rise to legal obligations on the part of others. Poverty reduction then becomes more than charity, more than a moral obligation – it becomes a legal obligation. This recognition of the existence of legal entitlements of the poor and legal obligations of others towards them is the first step towards empowerment.

6. The obligations deriving from rights may be analysed by reference to the duties to respect, protect and fulfil. *The duty to respect* requires the duty-bearer not to breach directly or indirectly the enjoyment of any human right. *The duty to protect* requires the duty-bearer to take measures that prevent third parties from abusing the right. *The duty to fulfil* requires the duty-bearer to adopt appropriate legislative, administrative and other measures towards the full realization of human rights.
7. Most of the salient features of the human rights normative framework can contribute to the empowerment of the poor in one way or another. These features include the notion of accountability, the principles of universality, non-discrimination and equality, the principle of participatory decision-making processes, and recognition of the interdependence of rights. They are all essential characteristics of a human rights approach to poverty reduction.
8. Rights and obligations demand *accountability*: unless supported by a system of accountability, they may become little more than window-dressing. Accordingly, the human rights approach to poverty reduction emphasizes obligations and requires that all duty-holders, including States and intergovernmental organizations, be held to account for their conduct in relation to international human rights. While duty-holders must determine for themselves which mechanisms of accountability are most appropriate in their particular case, all mechanisms must be accessible, transparent and effective.
9. The twin principles of *equality and non-discrimination* are among the most fundamental elements of international human rights law. It follows that the international human rights normative framework has a particular preoccupation with individuals and groups who are vulnerable, marginal, disadvantaged or socially excluded. Thus, the human rights approach to poverty reduction requires that laws and institutions that foster discrimination against specific individuals and groups be eliminated and more resources devoted to areas of activity with the greatest potential to benefit the poor.
10. A human rights approach to poverty reduction also requires active and informed *participation* by the poor in the formulation, implementation and monitoring of poverty reduction strategies. The international human rights normative framework includes the right to take part in the conduct of public affairs. This is a crucial and complex human right that is inextricably linked to fundamental democratic principles. A democratic social order based on constitutionalism and free and fair elections is an essential prerequisite for enjoyment of this right. However, effective participation by the poor requires more than a functioning democracy. It calls for specific mechanisms and detailed arrangements at different levels of decision-making that help to overcome the impediments that the poor, and marginalized groups in general, face in playing an effective part in the life of the community.
11. The international human rights framework recognizes the *interdependence of rights* – the fact that the enjoyment of some rights may be dependent on or contribute to the enjoyment of others. For example, if the poor are to enjoy the right to participate in poverty reduction strategies, they must be free to organize without restriction (right of association), to meet without impediment (right of assembly), and to say what they want without intimidation (freedom of expression); they must know the relevant facts (right to information) and they must enjoy an elementary level of economic security and well-being (right to a reasonable standard of living and associated rights).

12. More generally, the human rights framework reflects the crucial interdependence of economic, social and cultural rights, on the one hand, and civil and political rights, on the other. Although poverty may seem to concern mainly the former category of rights, the human rights framework highlights the fact that the enjoyment of these rights may be crucially dependent on enjoyment of the latter category. A human rights approach to poverty reduction is thus holistic in nature, encompassing civil and political rights as well as economic, social and cultural rights.
13. Yet another feature of the human rights approach is that responsibility for poverty reduction becomes a universal obligation. While a State is primarily responsible for realizing the human rights of the people living within its jurisdiction, other States and non-State actors are also obliged to contribute to, or at the very least not to violate, human rights. This has important implications for the conduct of international affairs. It calls for an adequate flow of financial and technical assistance from the rich to the poor countries and for active efforts to establish equitable systems of multilateral trade, investment and finance that are conducive to poverty reduction.
14. While the human rights approach imposes an obligation on duty-holders to work towards poverty reduction, it does not make the unreasonable demand that all human rights must be realized immediately. In recognition of resource constraints, it allows, if necessary, for *progressive realization* of rights over a period of time and for the setting of priorities among rights in the course of progressive realization. At the same time, however, the approach imposes certain conditions on the conduct of progressive realization and on the act of prioritization so that the human rights agenda does not degenerate into mere rhetoric. For example, the human rights approach demands that minimum essential levels of all rights – or core obligations – should always be respected.
15. Contrary to yet another common perception, the non-fulfilment of human rights does not necessarily mean that a State is in non-compliance with its international human rights obligations. Provided that it is taking all reasonable measures towards realizing rights that are subject to progressive realization and taking immediate steps to fulfil those meant to be fulfilled without delay, the State cannot be held responsible for the fact that many rights remain unfulfilled at any point in time and hence cannot be said to be in non-compliance with its obligations. It can, however, be held responsible for not taking all measures within its power to ensure progressive realization of rights as expeditiously as possible. To help distinguish cases in which the State should be held responsible from those in which it should not is one of the functions of a proper monitoring and accountability system, which is an essential feature of the human rights approach.<sup>4</sup>

## **ADDED VALUE PROVIDED BY THE HUMAN RIGHTS APPROACH TO POVERTY REDUCTION**

16. Some poverty reduction strategies already have features that reflect international human rights norms. For example, the emphasis placed on civil society participation in the Poverty Reduction

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<sup>4</sup> For a more detailed discussion of the salient features of a human rights approach to poverty reduction, see *Human Rights and Poverty Reduction: A Discussion Paper*, especially section II.

Strategy Paper approach advocated by the World Bank and the IMF reflects the right of individuals to take part in the conduct of public affairs, as well as the related rights of association, assembly and expression. The introduction of social safety nets resonates with the rights to a reasonable standard of living, food, housing, health protection, education and social security. Anti-poverty strategies that demand transparent budgetary and other governmental processes are consistent with the right to information, while the insistence that strategies are “country-owned” corresponds to the right of peoples to self-determination.

17. This congruence between features of existing poverty reduction strategies and the international human rights framework gives rise to two important points. First, the departure represented by the introduction of a rights-based approach to poverty reduction should not be overstated. Second, the application of human rights to poverty reduction reinforces some of the existing features of anti-poverty strategies. The value added by the human rights approach to poverty reduction consists both in the manner in which it departs from existing strategies and in the manner in which it reinforces them. The major elements of this process may be enumerated as follows.
18. By introducing the dimension of an *international legal obligation*, the human rights perspective adds legitimacy to the demand for making poverty reduction the primary goal of policy-making. The last decade has witnessed a move towards poverty reduction as the focus of international cooperation as well as of national policy-making. The human rights perspective adds strength to this movement by drawing attention to the fact that poverty signifies non-realization of human rights so that the adoption of a poverty reduction strategy is therefore not just desirable but obligatory on the part of States that have ratified international human rights instruments.
19. Recognition of the principles of *equality and non-discrimination*, which is a central premise of the human rights approach, helps to highlight the fact that a great deal of poverty originates from discriminatory practices – both overt and covert – at the international, national and local levels. This recognition calls for the reorientation of poverty reduction strategies from a tendency to focus on narrow economic issues towards a broader strategy that also addresses socio-cultural and political-legal institutions that sustain the structures of discrimination.
20. Recognition of *complementarities* between civil and political rights, on the one hand, and economic, social and cultural rights, on the other, adds impetus to the process of strengthening and broadening the scope of poverty reduction strategies. In particular, it helps dispel the misconception that civil and political rights and freedoms are luxuries and relevant only to relatively affluent societies. Accordingly, the human rights approach demands that measures be taken to ensure civil and political rights are integral components of poverty reduction strategies.
21. Unlike old-style approaches to poverty reduction, the human rights approach attaches as much importance to the processes whereby developmental goals are achieved as to the goals themselves. In particular, it emphasizes the importance of ensuring people’s *participation*, especially participation by the poor and otherwise marginalized groups, in all aspects of decision-making. The importance of participation is being increasingly recognized. The human rights approach reinforces this recognition by drawing attention to the fact that participation is valuable not just as a means to other ends but also as a fundamental human right that should be realized for its own sake.
22. Making trade-offs among alternative goals in the light of social priorities and resource constraints is an integral part of any approach to policy-making. The human rights approach is no exception, but it offers the poor better protection by ruling out certain kinds of trade-offs that

are potentially harmful to them. In particular, it rules out any trade-off that leads to retrogression of a human right from its existing level of realization or to non-achievement of certain minimum levels of realization that have been identified as core obligations.

23. Perhaps the most important source of added value in the human rights approach is the emphasis it places on the *accountability* of policy-makers and other actors whose actions have an impact on the rights of people. Rights imply duties, and duties demand accountability. It is therefore an intrinsic feature of the human rights approach that institutions and legal/administrative arrangements for ensuring accountability are built into any poverty reduction strategy.
24. In sum, the human rights approach has the potential to advance the goal of poverty reduction in a variety of ways: (a) by urging speedy adoption of a poverty reduction strategy, underpinned by human rights, as a matter of legal obligation; (b) by broadening the scope of poverty reduction strategies so as to address the structures of discrimination that generate and sustain poverty; (c) by urging the expansion of civil and political rights, which can play a crucial instrumental role in advancing the cause of poverty reduction; (d) by confirming that economic, social and cultural rights are binding international human rights, not just programmatic aspirations; (e) by adding legitimacy to the demand for ensuring meaningful participation of the poor in decision-making processes; (f) by cautioning against retrogression and non-fulfilment of minimum core obligations in the name of making trade-offs; and (g) by creating and strengthening the institutions through which policy-makers can be held accountable for their actions.

## EXPLANATORY REMARKS ON THE GUIDELINES

25. The word “*guideline*” is understood differently by different people and institutions. The set of Guidelines presented here should be seen as elaborating and clarifying certain principles that should guide the process of formulating, implementing and monitoring a poverty reduction strategy if it is to be consistent with a human rights approach. The expectation is that once the principles are understood, the actors involved in poverty reduction will be able to implement them in practice, keeping in view the specificities of their own context. In other words, this is not a manual that purports to teach in a mechanical, comprehensive and directive way how to implement human rights in the context of poverty reduction.
26. While the principles of the rights-based approach to poverty reduction enunciated in these Guidelines are broadly applicable to both rich and poor countries, the primary focus is on poverty in poorer countries. In part, this is in recognition of the obvious fact that poverty is a much more serious problem in these countries. But it is also partly because poverty in rich countries has special features that need to be addressed separately. Perhaps these Guidelines could be expanded in the future to address those issues.
27. The Guidelines presented here do not address all aspects of human rights with equal emphasis, because they are formulated for the specific context of poverty reduction, which is only a part of the broader human rights agenda. The rationale of the choice of rights, of the relative emphasis placed on different rights, and of the targets, indicators and strategies to be found in these Guidelines should be understood in this context.

28. The choice of human rights to be addressed in these Guidelines was based on a judgement as to which rights are most relevant to the context of poverty. This judgement was in turn guided by the understanding that human rights can be relevant to poverty in different ways.<sup>5</sup> Of special significance in the context of poverty reduction are rights that have either constitutive or instrumental relevance.
29. The idea of *constitutive* relevance of human rights derives from our understanding of what it means to be poor. According to a widely accepted view, a poor person is one who is deprived of basic capabilities – such as the capability to be free from hunger, to live in good health, to be literate, and so on. In the language of rights, one may say that a poor person is one for whom a number of human rights remain unfulfilled – such as the rights to food, health, education and so on. Such rights have constitutive relevance for poverty if a person’s lack of command over economic resources plays a role in causing their non-realization. Some human rights are such that their fulfilment will help realize other human rights that have constitutive relevance for poverty. For example, if the right to work is realized, it will help realize the right to food. Such rights can be said to have *instrumental* relevance for poverty. The same human right may, of course, have both constitutive and instrumental relevance. These Guidelines address the rights that are considered to be most relevant to poverty – on either constitutive or instrumental grounds or on both.
30. The Guidelines are divided into three sections. Section I sets out the basic principles of a human rights approach that should inform the *process* of formulating a poverty reduction strategy. Section II sets out the human rights approach to determining the *content* of a poverty reduction strategy. It identifies, for each of the rights relevant to poverty reduction, the major elements of a strategy for realizing that right. Here the rights are classified under two broad headings – national and international – depending on the level at which action will have to be taken. Section III explains how the human rights approach can guide the *monitoring* and *accountability* aspects of poverty reduction strategies. Like the principles discussed in Section I, accountability is also one of the basic principles of a human rights approach to poverty reduction. But because of its special significance in the context of human rights and poverty reduction, it is singled out for discussion in a separate section.
31. In Section II of the Guidelines, the discussion of each right is structured around four parts. *Part A* outlines the relevance of the right in the context of poverty. *Part B* sketches the scope or content of the right as set out in international human rights instruments. For ease of reference, boxes reproduce some of the most relevant international human rights provisions; they also refer to recent world conferences, as well as the most relevant General Comments or Recommendations adopted by United Nations human rights Treaty-bodies. (General Comments and Recommendations offer guidance to State parties on the contours and content of human rights and the measures that might be taken to better secure their implementation.) *Part C* identifies key targets in relation to each right and lists, for each target, some indicators that will help assess the extent to which these targets are being achieved over time. *Part D* sets out key features of a strategy for achieving the specified targets. Some brief comments are in order regarding the *targets*, *indicators* and *strategies* identified in these Guidelines.
32. For each right, the *targets* were derived from the scope of the right as set out in international human rights law (and discussed in Part B under each right). The choice of targets was guided by the following question: given the scope of the right, what are the major targets whose

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<sup>5</sup> The multiple ways in which human rights can be relevant to poverty have been discussed at length in the *Discussion Paper*, section I.

fulfilment would ensure realization of that particular right for the poor? Achieving these targets, for all the rights that are relevant to poverty, should be the ultimate goal of the human rights approach to poverty reduction. Many of the targets draw upon, and are similar to, those set out in the Millennium Development Goals (MDGs) adopted by the United Nations General Assembly in September 2000.

33. These targets may not all be achievable immediately – they may be subject to progressive realization. Nevertheless, a human rights approach to poverty reduction requires States to move as expeditiously as possible towards fulfilment of the targets. In the light of progressive realization, States should identify appropriate indicators, in relation to which they set ambitious but realistic benchmarks (i.e. intermediate targets) corresponding to each ultimate target, so that the rate of progress can be monitored and, if progress is slow, corrective action taken. Thus, indicators measure progress towards both intermediate and ultimate targets.
34. Several points relating to *indicators* are worth noting. First, the construction of human rights indicators is an ongoing enterprise and this document does not claim to have entirely resolved the matter. Nonetheless, an attempt has been made to derive from the existing literature, including that on Millennium Development Goals, a set of indicators that seem most appropriate for the targets in question, keeping in view the context of poverty. It is important to bear this poverty context in mind when inquiring why certain targets and indicators have been chosen, and not others.
35. Second, even in the context of poverty, the proposed list of indicators is by no means exhaustive. At the same time, it is not expected that all the indicators proposed here are applicable to all countries at all times. The list is intended for reference only. Each country must decide for itself which indicators are most appropriate for its specific circumstances.
36. Third, while using the indicators, it should be borne in mind that the objective is to indicate the conditions of the poor, and of specific disadvantaged groups among the poor, and not the average condition of the population as a whole. Some indicators are such that even if they refer to the overall population, any improvement or deterioration indicated by them will basically reflect changes in the condition of the poor – for example, the proportion of all children with access to primary education, or the proportion of homeless people in the country. Other indicators do not have this property – for example, the rate of specific crimes against women. These will have to be disaggregated to reflect the condition of the poor and of specially disadvantaged groups among them, e.g. poor women, minorities, indigenous peoples and so on. Exactly what type of disaggregation is appropriate will depend on the nature of the target in question and the particular circumstances of the country.
37. Fourth, most of the indicators proposed in these Guidelines have a striking resemblance to the standard indicators of socio-economic progress. So this raises the question, in what sense can they be characterised as human rights indicators? In brief, a human rights indicator derives from, reflects and is designed to monitor realisation or otherwise of a specific human rights norm, usually with a view to holding a duty-bearer to account. Thus, because there is overlap between human rights targets and socio-economic progress, there is likely to be a resemblance between human rights indicators and the standard indicators of socio-economic progress - although it should be observed that some human rights indicators, especially those relating to civil and political rights, do not usually figure in measures of socio-economic progress. Essentially, what tends to distinguish a human rights indicator from a standard disaggregated indicator of socio-economic progress is less its substance than (i) its explicit derivation from a

human rights norm and (ii) the purpose to which it is put viz human rights monitoring with a view to holding duty-bearers to account.

38. Some remarks should be made to clarify the *strategies* proposed in connection with each right. First, the intention is not to offer a complete strategy for implementing the right in question. A strategy is offered only to the extent that it is relevant to poverty reduction. Even in the context of poverty, the idea is not to formulate comprehensive and detailed prescriptions, but to identify some broad principles that follow from human rights concerns. The details are to be worked out by the people engaged in preparing poverty reduction strategies, and these details are bound to vary depending on the context.
39. Second, for each right the proposed strategy consists of two distinct types of recommendation. First, there are recommendations that follow directly and clearly from the explicit human rights laws and their elaboration by the UN human rights Treaty-bodies. Second, there are recommendations that may not be explicitly stated in any treaties or human rights jurisprudence, but are considered to be consistent with the spirit and intention of the law. In general, a prescriptive tone is adopted here for the first set of recommendations, while the second is presented rather as a set of suggestions. It should be understood, however, that when the prescriptive tone is used it is only because the recommendations are in the nature of legal obligations. Moreover, these obligations have not been imposed from outside; they have been voluntarily incurred by States with a view to upholding the dignity and freedom of their people. The prescriptive language is intended merely to remind States of what they have voluntarily undertaken to do.
40. Third, even taking the prescriptive and suggestive elements together, the proposed strategy for any particular right cannot be regarded as comprehensive in any sense. This is partly because of the interdependence of human rights discussed earlier. Thus, the strategy proposed for implementing the right to food will not succeed for everyone unless progress is made in realizing the right to work, because most people who are not directly involved in food production have to work to purchase food from the market. Furthermore, successful implementation of any right will depend on the institutions for participation, monitoring and accountability – issues that are common to all rights and have therefore been discussed in separate sections instead of being repeated for each right. Thus, the strategy proposed for each right has to be seen as part of a comprehensive approach rather than as being adequate in isolation.
41. Fourth, a comprehensive approach does not prevent a State from prioritizing among rights. It is not expected that any country will find it feasible to implement all the recommendations with respect to all the rights simultaneously and immediately. Each State is free to set its own priorities and take up some of the recommendations for immediate implementation, while deferring others, so long as it abides by the principles of progressive realization discussed in Guideline 4. In choosing priorities, however, each State should be alert to the interdependence of human rights so as to maximize the effectiveness of its policies.

## CONCLUDING OBSERVATIONS

42. These Guidelines address large, complex, multisectoral issues of far-reaching importance. Clearly, this document represents one stage in a *long-term project*. While the Guidelines draw on some practical experience, they should be subjected to a *piloting* process and revised accordingly. In this way, they can be refined and become increasingly operational.
43. United Nations specialized agencies, programmes and other bodies have a wealth of material and expertise bearing upon the issues addressed in this document. Thus, they are in an excellent position to help States formulate, implement, monitor and evaluate strategies, policies, programmes and projects that reflect these Guidelines. It is to be hoped that the various United Nations agencies and programmes will coordinate closely with a view to assisting States that may wish to use the Guidelines as a way of enhancing their poverty reduction strategies.

## **CHAPTER 2: THE GUIDELINES**

## **Section I. THE PROCESS OF FORMULATING POVERTY REDUCTION STRATEGIES IN THE HUMAN RIGHTS APPROACH**

### **Guideline 1: IDENTIFICATION OF THE POOR**

44. Any strategy for poverty reduction has to begin with identification of the poor. This task is composed of two steps: (a) identifying the attributes that are deemed to constitute poverty, and (b) identifying the population groups that possess these attributes.
45. Identifying the attributes of poverty: From a human rights perspective, poverty consists in the non-fulfilment of a person's human rights to a range of basic capabilities – to do and be the things he or she has reasons to value. Capability failure is thus the defining attribute of poverty.
46. Since poverty denotes an extreme form of deprivation, only those capability failures should count as poverty that are deemed to be basic in some order of priority. As different societies may have different orders of priority, the list of basic capabilities may differ from one society to another.
47. However, empirical observation suggests a common set of capabilities that are considered basic in most societies. They include the capabilities of being adequately nourished, avoiding preventable morbidity and premature mortality, being adequately sheltered, having basic education, being able to ensure security of the person, having equitable access to justice, being able to appear in public without shame, being able to earn a livelihood, and taking part in the life of a community. The present Guidelines deal with this common set. But each country must ascertain, through a participatory process, which other capabilities its people consider basic enough for their failure to count as poverty.
48. Identifying the poor: Once the basic capabilities have been identified, the next step is to identify the population groups that suffer from inadequate achievement of those basic capabilities. This task is informationally demanding, especially since poverty is to be measured in terms of a range of attributes. Innovative mechanisms will have to be designed – probably using a combination of quantitative and qualitative methods – to elicit the necessary information in a cost-effective way. The preferred method will depend on the particular circumstances of a country. If the current capability of the country is not adequate to elicit the desired information, steps should be taken to develop the capability as expeditiously as possible.
49. Whatever method is actually used to identify the poor, the human rights approach demands that it should be guided by a couple of special considerations.
50. First, the objective of the exercise should not merely be to come up with a number, such as the proportion of poor people in the population, but to know who these people are. Thus it is necessary to identify specific groups – in terms of various characteristics, such as gender,

geographical location, ethnicity, religion, age or occupation – in which poverty is entrenched so that the problem of poverty can be addressed at as disaggregated a level as possible.

51. Second, special efforts must be made to identify those among the poor who are especially deprived (e.g. women) and vulnerable (e.g. people living with HIV/AIDS). When resource constraints call for the setting of priorities, it is the entitlement of these groups that should receive prior attention. This is necessary for the sake of equality, which is an essential principle of the human rights approach.

## **Guideline 2: NATIONAL AND INTERNATIONAL HUMAN RIGHTS FRAMEWORK**

52. While the documents spelling out poverty reduction strategies PRS are not legal instruments, they must be consistent with, and informed by, the State's national and international human rights commitments for two reasons: (i) this will enhance the strategy's effectiveness; (ii) otherwise some features of the strategy may be unlawful.
53. This has significant implications for States as well as for those responsible for policies and programmes that impact on States. All parties should use a State's national and international human rights commitments as the normative foundation on which PRS are constructed.
54. When beginning to prepare or review a PRS, a State should expressly identify:
  - (i) National human rights law and practice in its jurisdiction, for example human rights provisions from the constitution, bill of rights, anti-discrimination laws, freedom of information legislation as well as the main human rights case law;
  - (ii) The international and regional human rights treaties, including relevant ILO Conventions and the UNESCO Convention against Discrimination in Education, it has ratified;
  - (iii) Other important international human rights instruments such as the Universal Declaration of Human Rights;
  - (iv) Commitments entered into at recent world conferences insofar as they bear upon human rights, including the United Nations Millennium Declaration (2000).
55. Given its responsibility to ensure that its human rights commitments inform the formulation and implementation of its PRS, a State should ensure that:
  - (i) Its human rights commitments are expressly referred to in the PRS;
  - (ii) Those responsible for formulating and implementing the PRS receive basic human rights training so that they are familiar with the State's human rights commitments and their implications;
  - (iii) Individuals are appointed with particular responsibility for ensuring that the State's human rights commitments are taken into account throughout the formulation and implementation of the PRS (e.g. departmental human rights officers);

(iv) Processes are designed, and put in place, to ensure that the State's human rights commitments receive due attention throughout the formulation and implementation of the PRS (e.g. arrangements to secure the preparation and scrutiny of ex ante and ex post human rights impact assessments).

56. Because the relevance of a State's human rights framework is not confined to the State itself, all those responsible for policies and programmes that impact upon a State should:

(i) Ensure that they do not make it more difficult for the State to implement its human rights commitments to individuals and groups within its jurisdiction;

(ii) Use their best endeavours, within their mandates, to help a State fulfil its national and international human rights commitments.

### **Guideline 3: EQUALITY AND NON-DISCRIMINATION**

57. The right to equality and the principle of non-discrimination are among the most fundamental elements of international human rights law. The right to equality guarantees, first and foremost, that all persons are equal before the law, which means that the law shall be formulated in general terms applicable to every human being and enforced in an equal manner. Secondly, all persons are entitled to equal protection of the law against arbitrary and discriminatory treatment by private actors. In this regard, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability and health status, including HIV/AIDS, age, sexual orientation or other status.

58. The poor are usually victims of discrimination on various grounds such as birth, property, national and social origin, race, colour, gender and religion. Depending on the particular circumstances of each society, poverty may affect primarily members of certain socially disadvantaged classes, or of certain ethnic or religious groups, women, elderly people or indigenous persons, but in most cases poverty is aggravated by some sort of discrimination. If Governments are responsible for such discrimination, they are under an obligation immediately to prohibit and cease all discriminatory laws and practices. If discriminatory attitudes are caused by traditions among the population (that are usually deeply rooted), Governments shall adopt and enforce laws prohibiting any discrimination by private actors. In both cases, Governments must, in addition, take special measures to afford effective protection to their most vulnerable, discriminated and socially excluded groups, including the poor, against discrimination by governmental authorities as well as by private actors.

59. Inequalities and discrimination may assume various forms, including explicit legal inequalities in status and entitlements, deeply rooted social distinctions and exclusions, and policies of indirect discrimination. It is therefore important to look at the effects rather than the intentions of measures and laws. For example, while there might be no intention to discriminate against women when the term "breadwinner" is included in social security law, if the practical application of this term primarily disadvantages women, it may constitute indirect discrimination on the grounds of sex.

60. Not every distinction constitutes discrimination since it might be based on reasonable and objective criteria. A law or policy that was originally considered reasonable might become discriminatory over time because of changing social values within a given society. As societies gradually became more gender- and ethnicity-sensitive, they also tend to become more poverty-sensitive. Whereas poverty might have been regarded in earlier times as a kind of "natural phenomenon", it is looked upon today as a social phenomenon aggravated by discrimination, which in turn requires corresponding anti-discrimination or even affirmative action by Governments. A human rights approach to poverty provides the necessary tools for identifying the roots of poverty that lie in discriminatory practices and for developing appropriate strategies to deal with them.
61. As discrimination may cause poverty, poverty also causes discrimination. In addition to their race, colour, gender or social origin, the poor are also subject to discriminatory attitudes by governmental authorities and private actors because they are poor. The twin principles of equality and non-discrimination require States to take special measures to prohibit discrimination against the poor and to provide them with equal and effective protection against discrimination. As the poor are among the most vulnerable groups in every society, a PRS must start by addressing the special needs of the poor not to be discriminated against, according to the particular circumstances of the society concerned. Given that the most common discriminatory practices deny poor people equal access to fundamental services and human rights such as the rights to food, education, health or justice, the respective State obligations, targets, indicators and strategies will be dealt with in the relevant Guidelines below.

#### **Guideline 4: PROGRESSIVE REALIZATION OF HUMAN RIGHTS; INDICATORS AND BENCHMARKS**

62. Poverty is so deeply entrenched in many societies that it is unrealistic to hope that even with the best of intentions it can be eliminated in a very short time. Equally, one must accept the reality that it may not be possible to fulfil all human rights immediately. Since the realization of most human rights is at least partly constrained by the availability of scarce resources, and since this constraint cannot be eliminated overnight, the human rights approach explicitly allows for progressive realization of rights.
63. The idea of progressive realization has two major strategic implications. First, it allows for a time dimension in the strategy for human rights fulfilment by recognizing that full realization of human rights may have to occur in a progressive manner over a period of time. Second, it allows for setting priorities among different rights at any point in time since the constraint of resources may not permit a strategy to pursue all rights simultaneously with equal vigour.
64. The recognition of a time dimension and the need for prioritization are common features of all approaches to policy-making. The distinctiveness of the human rights approach is that it imposes certain conditions on these features, so that the pursuit of human rights is not reduced to mere rhetoric in the name of progressive realization.
65. The recognition of a time dimension is accompanied by certain conditions aimed at ensuring that the State does not take it as a licence either to defer or to relax the efforts needed to realize human rights. In particular, the State is required to do the following.

66. First, the State must acknowledge that with a serious commitment to poverty reduction it may be possible to make rapid progress towards the realization of many human rights even within the existing resource constraint. This will often be true of “respect” obligations with regard to most rights, which require political will more than economic resources (see Introduction, para. 6). Even for “protect” and “fulfil” obligations, which would typically be more dependent on resources, it may be possible to make rapid progress by improving the efficiency of resource use – for example, by scaling down expenditure on unproductive activities, and by reducing spending on activities whose benefit goes disproportionately to the rich.
67. Second, to the extent that the realization of human rights may be contingent on a gradual expansion in the availability of resources, the State must begin immediately to take steps to fulfil the rights as expeditiously as possible by developing and implementing a time-bound plan of action. The plan must spell out when and how the State hopes to arrive at the realization of rights.
68. Third, the plan must include a series of intermediate – preferably annual – targets. As the realization of human rights may take some considerable time, possibly extending well beyond the immediate term of a Government in power, it is with regard to these intermediate targets (or benchmarks) rather than the final target of full realization that the State will have to be held accountable.
69. Fourth, as a prerequisite of setting targets, the State will have to identify some indicators in terms of which targets will be set. In practice, a bundle of indicators will be needed for each human right, and they should be specified separately, at levels that are as disaggregated as possible, for each subgroup of the poor population. Realistic time-bound targets will have to be set in relation to each indicator so as to serve as benchmarks.
70. With regard to prioritization, the human rights approach does not in itself offer any hard and fast rule, but it does impose certain conditions on the process and substance of prioritization.
71. The *process* of setting priorities must involve effective participation of all stakeholders, including the poor. Value judgements will inevitably enter the process of setting priorities, but the rights-based approach demands that they should do so in an inclusive and equitable manner. This implies that the process of resource allocation must permit all segments of society, especially the poor, to express their value judgements with regard to priorities. It also implies that just institutional mechanisms must be put in place so that potentially conflicting value judgements can be reconciled in a fair and equitable manner. (See Guideline 5 for more on participation.)
72. The *substance* of prioritization must be guided by the following principles. First, no human right can be given precedence over others on the ground of intrinsic merit, because from the human rights perspective all rights are equally valuable. However, different rights can still be given priority at different stages of progressive realization on practical grounds. For example, a country may decide to give priority to a right that has remained especially under-realized compared with others, to a right whose fulfilment is expected to act as a catalyst towards the fulfilment of other rights, or to a right which a country may feel especially well equipped to deal with first in view of its tradition, experience and so on.
73. Second, while allocating more resources to the rights that have been accorded priority at any given point in time, care must be taken to ensure that the rest of the rights maintain at least their initial level of realization. This restriction follows from the principle of non-retrogression of

rights – no right can be deliberately allowed to suffer an absolute decline in its level of realization.

74. Third, notwithstanding the recognition of resource constraint, the international human rights system specifies some core obligations that require States to ensure, with immediate effect, certain minimum levels of enjoyment of various human rights. For example, a State has a core obligation, derived from the rights to life, food and health, to ensure that all individuals within its jurisdiction are free from starvation. These core obligations must be treated as binding constraints – i.e. no trade-offs are permitted with regard to them.

## **Guideline 5: PARTICIPATION AND EMPOWERMENT**

75. As States have primary responsibility for fulfilling the human rights of the people living in their respective jurisdiction, it follows that any poverty reduction strategy must be a country-driven process. Country ownership should thus be an essential attribute of any poverty reduction strategy.
76. However, country ownership should not be interpreted narrowly to mean ownership on the part of the Government alone. The strategy has to be owned by all relevant stakeholders within the country, including the poor. This can only be possible, however, when all stakeholders, including the poor, participate effectively in all stages of the process.
77. Active and informed participation by the poor is not only consistent with, but also demanded by, the rights-based approach because the international human rights normative framework affirms the right to take part in the conduct of public affairs.
78. One may distinguish four stages of participation: preference revelation; policy choice; implementation; and monitoring, assessment and accountability.
79. The stage of *preference revelation* is the initial stage of any process of policy formulation. Before policies can be formulated, people must be enabled to express what their preferences are, i.e. what objectives they want to achieve.
80. The stage of *policy choice* refers to the stage at which policies are formulated and decisions taken regarding the allocation of resources among alternative uses. As different patterns of resource allocation will serve the interests of different groups of people differently, a conflict of interest is inherent in any process of policy formulation. In whose favour this conflict is resolved depends very much on who can participate effectively in the process. Traditionally, the poor are left out, as they do not possess enough political or financial power to make their interests count. A human rights approach must take steps to alter this situation, by creating a legal-institutional framework in which the poor can participate effectively in policy formulation.
81. The point is not that the poor should take part in all the technical deliberations that underlie policy formulation. But they must be allowed to take part in the process of setting priorities and benchmarks that will guide such deliberations. In practice, this means that when alternative policy options are being explored by experts, the implications of these options for the interests

of various population groups must be made transparent to the general public, including the poor, so that they can have an opportunity to argue for the options that serve their interests best.

82. Although the *implementation* of policies is primarily the responsibility of the executive arm of the State, opportunities must be created to enable the poor to exercise their right to participate in the implementation stage as well. Such opportunities are more likely to arise in community-level activities, which in turn are more likely to flourish within an institutional framework of representative local government. Decentralization of government and a deepening of democracy are therefore essential components of the human rights approach to poverty reduction.
83. The final stage of participation is the stage of *monitoring and assessment* of the success or failure of policies so that the State and other duty-bearers can be held accountable for their obligations. It is an essential feature of the human rights approach that the people who are affected by policies are able to participate in monitoring and assessing their success or failure and then take part in the procedures for holding the duty-bearers accountable. Appropriate institutional arrangements are needed for such participation to be possible. (This issue is discussed further in Section III on Implementation, Monitoring and Accountability.)
84. It is not enough for the poor merely to participate in decision-making processes; they must be able to participate effectively. In order to ensure this, two sets of preconditions have to be satisfied.
85. First, while the practice of democracy is an essential precondition for the enjoyment of the right to participate, electoral democracy is not all that is needed. Devising specific mechanisms and detailed institutional arrangements through which the poor can effectively participate at different stages of decision-making is an essential component of the human rights approach to poverty reduction.
86. The second precondition is empowerment of the poor themselves so as to make their participation effective. In part, this empowerment will depend on the realization of a minimum degree of economic security without which the poor are unlikely to be able to resist established structures that perpetuate their poverty. Capacity-building activities are also essential in order to empower the poor. Human rights education can play an effective role in this process.
87. In addition, however, empowerment requires simultaneous efforts to promote a range of other human rights. For example, if the poor are to be empowered to participate meaningfully in the conduct of public affairs, they must be free to organize without restriction (right of association), to meet without impediment (right of assembly), to say what they want to without intimidation (freedom of expression) and to know the relevant facts (right to information). Furthermore, poor people must be allowed to receive support from sympathetic civil society organizations (including the media) that might be willing to champion their cause. For this to be possible, the State must create the necessary legal and institutional framework in which an independent civil society can flourish. (See Guideline 14 on political rights and freedoms.)

## **Section II. CONTENT OF POVERTY REDUCTION STRATEGIES IN THE HUMAN RIGHTS APPROACH**

### **A: THE NATIONAL LEVEL**

#### **Guideline 6: RIGHT TO ADEQUATE FOOD**

##### **A. Importance of the right to adequate food**

88. Self-evidently, adequate food is needed for human survival. Undernutrition handicaps people for life: brain cells do not develop, bodies are stunted, diseases become rife, limiting potential and condemning the hungry to a marginal existence. Hungry children cannot concentrate at school and hunger reduces workers' productivity. Poverty may lead to undernutrition, and undernutrition is likely to deepen poverty.
89. Undernutrition and hunger are constitutive of poverty. Thus, the right to adequate food has a crucial role to play in relation to PRS. Further, enjoyment of the right to adequate food is instrumental in securing other rights such as health, education and work.
90. The importance of the right to adequate food is underlined by the Millennium Development Goal that aims to halve, by the year 2015, the proportion of people who suffer from hunger.

##### **B. Scope of the right to adequate food.**

91. The right to adequate food is the right of all individuals, alone or in community with others, to enjoy physical and economic access to adequate food or the means for its procurement. It should be understood primarily as the right to feed oneself, rather than the right to be fed. The right to be free from hunger is the minimum essential level of the right to adequate food.
92. The right to food implies (i) the availability of food in sufficient quantity and quality to satisfy the dietary needs of all individuals in a form that is culturally acceptable; (ii) the accessibility of food in ways that are sustainable and do not interfere with the enjoyment of other human rights.
93. The “availability of food” refers either to the possibility of feeding oneself directly from productive land or other natural resources, or to the existence of a well functioning distribution, processing and market system that moves food from the site of production to where it is needed in accordance with demand.

94. The “accessibility of food” encompasses both economic and physical accessibility. “Economic accessibility” implies that personal or household costs associated with the acquisition of food for an adequate diet should be at such a level that the satisfaction of other basic needs is not compromised. “Physical accessibility” implies that adequate food must be accessible to everyone, including the vulnerable such as women, children, the elderly, the sick, persons with physical disabilities, persons who are mentally ill, and victims of natural disasters and armed conflicts. If access to their ancestral lands is threatened, indigenous peoples are particularly vulnerable.
95. The right to adequate food also encompasses food safety and food security. Food safety implies that food should be free from adverse substances, whether from adulteration, poor environmental hygiene or other causes. Food security implies the absence of vulnerability to hunger, i.e. a low risk of falling victim to hunger through changes in personal or external circumstances. In other words, people are food secure if they can afford and have access to adequate food at all times.

### Box 1: The right to adequate food

“ **ICESCR, art. 11:**

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food ... The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

“ **General Comment No. 12 adopted by the CESCR (E/C.12/1999/5).**

“ See also **CRC (arts. 24 and 27), CEDAW (art. 14.2 g).**

“ **World Conferences: Rome Declaration on World Food Security and World Food Summit Plan of Action (1996); Declaration of the World Food Summit: five years later (2002).**

“ **Millennium Development Goal 1 (Eradicate hunger).**

### C. Key targets and indicators

#### ***Target 1: All people to be free from chronic hunger***

##### Indicators:

- Proportion of people with inadequate intake of dietary energy
- Proportion of adults and adolescents with low body mass
- Proportion of underweight among under-five children

#### ***Target 2: Eliminate gender inequality in access to food***

##### Indicators:

- Proportion of males and females with inadequate intake of dietary energy
- Proportion of male and female adults and adolescents with low body mass
- Proportion of underweight boys and girls

#### ***Target 3: All people to be free from food insecurity***

##### Indicators:

- Proportion of households not able to have two square meals regularly
- Proportion of household expenditure on food
- Variability of prices of staple foods

#### ***Target 4: All people to have access to food of adequate nutritional value***

##### Indicators:

- Proportion of poor people with inadequate intake of protein
- Proportion of poor people with inadequate intake of micronutrients

#### ***Target 5: All people to have access to safe food***

##### Indicators:

- *Proportion of poor people vulnerable to consumption of unsafe food*
- Proportion of people exposed to public information and education campaigns (including school instruction) regarding nutrition and food safety

### D. Key features of a strategy for realizing the right to adequate food

96. An effective land registration system should be developed and the land records placed in the public domain – including through the Internet – so that powerful members of the elite cannot easily usurp the lands of the poor with impunity.

97. The State should legislate for and protect (i) the rights of tenant farmers against unlawful eviction by landlords, (ii) a fair division of the produce between the tenant and the landlord, and (iii) effective land redistribution programmes in situations in which extreme land concentration prevents people from being able to feed themselves. Effective participatory local governance as well as fair access to justice must be ensured as a prerequisite for protecting these rights.
98. Efforts must be made to secure indigenous peoples' right to the lands (including forests, grazing lands and other common property resources) on which they depend for their food.
99. Measures should be taken to promote competition among private dealers in food and agricultural inputs, and effective regulatory mechanisms should be introduced to prevent monopolistic intermediaries from squeezing small food producers and poor consumers.
100. Wherever the market fails to serve poor farmers and consumers – because of remoteness of their location or thinness of the market or for any other reason – the State should provide the necessary services to the extent possible. The fiscal subsidies that are likely to be required in order to operate this policy ought to be accorded high priority in the allocation of public resources.
101. Government action to support the farming community must not discriminate against any groups or individuals – on the basis of gender, religion, ethnicity or other prohibited grounds.
102. The State should promote activities aimed at empowering women wherever they suffer from either intra-household discrimination in the access to food or barriers to access to the market.
103. The State must refrain from forcing small agricultural producers to sell their products to government procurement agencies at less than market prices in normal times.
104. A fully operational early warning system should be installed to signal impending threats to the poor's entitlement to food emanating from either production shocks or instability in domestic and/or world markets.
105. An emergency relief system should be set up to respond quickly and vigorously to any impending threats to the poor's entitlement to food by adopting a combination of protective measures. Examples of such measures are direct food distribution, cash transfers, food for works programmes and production support for the subsequent harvest where the crisis is due to a harvest failure.
106. The State should operate a regular (non-emergency) targeted support system – either through direct food distribution or through cash transfers – to ensure adequate access to food for individuals who are unable to feed themselves even in normal times owing to various disabilities. Fiscal provisions for this purpose must be accorded high priority in the allocation of public resources.
107. In any kind of public food distribution system, the beneficiaries must not be forced to accept food that is culturally unacceptable to them and/or perceived to constitute unacceptable health risks.
108. Regulatory mechanisms should be put in place to ensure that the suppliers and distributors of food maintain minimum acceptable standards of health safety.

109. The State must avoid the use of food as a political weapon. Specifically, it must not forcibly deny parts of the population access to food or obstruct their ability to feed themselves.
110. The State should ensure that patenting systems do not appropriate indigenous knowledge without compensation and that they do not prevent access of traditional users to traditional plants that are used for food and nutritional purposes.
111. Programmes should be instituted to improve effective knowledge of nutrition and to promote activities that support increased access to food of high nutritional value.

## **Guideline 7: RIGHT TO HEALTH**

### **A. Importance of the right to health**

112. Ill health causes and contributes to poverty by destroying livelihoods, reducing worker productivity, lowering educational achievement and limiting opportunities. Because poverty may lead to diminished access to medical care, increased exposure to environmental risks, and malnutrition, ill health is also often a consequence of poverty. Accordingly, ill health is both a cause and a consequence of poverty: sick people are more likely to become poor and the poor are more vulnerable to disease and disability.
113. Good health is central to creating and sustaining the capabilities that poor people need to escape from poverty. A key asset of the poor, good health contributes to their greater economic security. Good health is not just an outcome of development: it is a way of achieving development.
114. Ill health is constitutive of poverty if lack of command over economic resources plays a role in its causation. Thus, the right to health has a crucial role to play in relation to PRS. Further, enjoyment of the right to health is instrumental in securing other rights such as education and work.
115. Health targets are prominent among the MDGs to be achieved worldwide by 2015: for example to reduce under-five child mortality by two thirds and maternal mortality by three quarters, to halve the proportion of people without sustainable access to safe drinking water, and to reverse the spread of HIV/AIDS, and the incidence of malaria and other major diseases. The Millennium Declaration also highlights other crucial health issues such as increasing the availability of affordable essential drugs to all who need them in developing countries. The prominence accorded to health targets and issues in the Millennium Declaration underlines the importance of the right to health in relation to poverty reduction.

### **B. Scope of the right to health**

116. The right to health is not to be understood as the right to be healthy: the state cannot provide protection against every possible cause of ill health. It is the right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health. The right includes both health care and the underlying determinants of health, including access to potable water, adequate and safe food, adequate

sanitation and housing, healthy occupational and environmental conditions, and access to health-related information and education.

117. The right to health contains both freedoms and entitlements. The freedoms include the right to control one's body, including reproductive health, and the right to be free from interference, such as freedom from torture and non-consensual medical treatment.
118. The entitlements include a system of health care and protection that is available, accessible, acceptable and of good quality. Thus, the right to health implies that functioning public health and health care facilities, goods and services are *available* in sufficient quantity within a state. It also means that they are *accessible* to everyone without discrimination. Accessibility has a number of dimensions, including physical, information and economic accessibility. Thus, 'information accessibility' includes the right to seek, receive and impart information concerning health issues, subject to the right to have personal health data treated with confidentiality. 'Economic accessibility' means that health facilities, goods and services must be affordable for all. Further, all health facilities, goods and services must be *acceptable* ie respectful of medical ethics and culturally appropriate, and of good *quality*.
119. According to international human rights law, the generic right to health encompasses a number of more specific health rights including: the right to maternal, child and reproductive health; the right to healthy natural and workplace environments; the right to prevention, treatment and control of diseases; and the right to health facilities, goods and services.

## Box 2: The right to health

### .. ICESCR, art. 12:

“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”

### .. General comment No. 14 adopted by the CESCR (E/C.12/2000/4).

.. See also CRC (arts. 6 and 24); CEDAW (arts. 10(h), 11(f), 12(1), 14(b) and General Recommendation No. 24); CERD (art. 5(e)(iv)).

.. **World Conferences:** United Nations General Assembly Special Session (UNGASS) on AIDS (2001): Declaration of Commitment on HIV/AIDS “Global Crisis - Global Action”; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban (2001): Durban Declaration and Programme of Action; Second World Assembly on Ageing (2002): Political Declaration and Madrid International Programme of Action on Ageing.

.. **Millennium Development Goals 4 (Reduce child mortality), 5 (Improve maternal health) and 6 (Combat HIV/AIDS, malaria and other diseases).**

.. **International guidelines on HIV/AIDS and human rights.**

### C. Key targets and indicators

#### ***Target 1: All people to have access to adequate and affordable primary health care***

##### Indicators:

- Life expectancy at birth
- Proportion of public expenditure on primary health care
- Proportion of the poor population not covered by any kind of pre-payment mechanisms, by non-discretionary interventions (e.g. exemption schemes, cash subsidies, vouchers) in relation to health user fees, or by privately funded health insurance
- Number of primary health care units per thousand population
- Number of doctors per thousand population
- Proportion of the poor population with access to affordable essential drugs

#### ***Target 2: To eliminate avoidable child mortality***

##### Indicators:

- Under-five mortality rate
- Infant mortality rate
- Proportion of under-five children immunized against communicable diseases

#### ***Target 3: To eliminate avoidable maternal mortality***

##### Indicators:

- Maternal mortality ratio
- Proportion of births attended by skilled health personnel
- Proportion of mothers with access to pre- and post-natal medical care facilities

#### ***Target 4: All men and women of reproductive age to have access to safe and effective methods of contraception***

- The rate of use of safe and effective methods of contraception among poor couples of reproductive age who wish to use contraceptives

#### ***Target 5: To eliminate HIV/AIDS***

##### Indicators:

- HIV prevalence among pregnant women
- Condom use rate
- Number of children orphaned by HIV/AIDS

***Target 6: To eliminate the incidence of other communicable diseases***

Indicators:

- Prevalence and mortality rate associated with communicable diseases
- Proportion of people with access to clean, safe drinking water
- Proportion of people with access to adequate sanitation
- Proportion of people immunized against communicable diseases

***Target 7: To eliminate gender inequality in access to health care***

Indicators:

- Sex ratio (overall, birth and juvenile)
- Disability-adjusted life years lost for men and women
- Ratio of women and men treated in medical institutions

**D. Key features of a strategy for realizing the right to health**

120. States should improve the supply of personal health services and make them more accessible to the poor by:

- (i) Targeting delivery to poor people by providing tailor-made services for vulnerable groups, such as women, the elderly, children, indigenous peoples, minorities, slum-dwellers, labour migrants and remote rural communities, via outreach clinics;
- (ii) Ensuring that resource allocation favours the poorer geographical regions;
- (iii) Ensuring that resource allocation favours the lower tiers of service delivery, i.e. primary care;
- (iv) Prioritizing reproductive, maternal (pre-natal as well as post-natal) and child health care;
- (v) Identifying diseases and medical conditions, such as malaria, tuberculosis and HIV/AIDS, that have a particular impact on the poor and, by way of response, introducing immunization and other programmes that are specifically designed to have a particular impact upon the poor;
- (vi) Ensuring that all services are respectful of the culture of all individuals, groups, minorities and peoples, and are sensitive to gender and of good quality;
- (vii) Providing essential drugs as defined by the WHO Action Programme on Essential Drugs.

121. States should improve the supply and effectiveness of public health interventions to the poor by:

- (i) Introducing and implementing basic environmental controls, especially regarding waste disposal in areas populated by the poor;
- (ii) Ensuring the provision of clean, safe and accessible drinking water;

- (iii) Regulating health service provision, for example with a view to eliminating the marketing of unsafe drugs and reducing professional malpractice;
  - (iv) Providing education and information about the main health problems in local communities, including methods of prevention and control.
122. States must reduce the financial burden of health care and health protection on the poor, for example by reducing and eliminating user fees for the poor. This can be done either by moving away from user fees and introducing other pre-payment mechanisms (e.g. national insurance or general taxation) or by keeping user fees and introducing non-discretionary, equitable and non-stigmatizing interventions for the poor (e.g. exemption schemes, direct cash subsidies and vouchers).
123. States should promote policies in other sectors that bear positively on the underlying determinants of health, entailing particular benefits for the poor, for example by supporting agricultural policies that have positive health outcomes for the poor (e.g. food security); identifying measures that address the negative impact of agricultural policies on the poor (e.g. health and safety risks to agricultural labourers); and generally promoting income-generating activities for the poor.
124. States must ensure that persons living in poverty are treated with equality and respect by all those involved in health care and health protection. Accordingly, States should provide all relevant health staff with anti-discrimination training in relation to disability and health status, including HIV/AIDS.

## **Guideline 8: RIGHT TO EDUCATION**

### **A. The importance of the right to education**

125. Education is the primary vehicle by which poor children and adults can lift themselves out of poverty. The exercise of the right to education is instrumental for the enjoyment of many other human rights, such as the rights to work, health and political participation. Lack of education, as manifested by high illiteracy rates and low primary school enrolment ratios, itself constitutes a dimension of poverty. The relevance to poverty of the right to education is underlined by the fact that universal primary education is a Millennium Development Goal to be achieved worldwide by 2015. Thus, all poverty reduction strategies should give close attention to progressive realization of the right to education and ensure that the poor are the first to benefit from improved access to education.

### **B. The scope of the right to education**

126. International human rights treaties define the right to education in a comparatively precise manner. In addition to providing free and compulsory primary education for all children, States have an obligation progressively to introduce free and equal secondary education (including vocational training) for all and equal access to free higher education on the basis of capacity. They also have an obligation to intensify fundamental (basic) education, leading above all to the elimination of illiteracy, for adults who have not satisfied their basic learning needs. Equality and non-discrimination are important aspects of the right to education, and States should give priority to equal access for the girl child and particularly vulnerable groups, such as children with disabilities and minority and refugee children.

127. The quality of education should be directed to the development of the child's personality, talents and abilities to their fullest potential, and to preparation of the child for responsible life in a free society, in a spirit of tolerance and respect for human rights, the natural environment, the child's parents and cultural identity, and civilizations different from his or her own. School discipline shall be administered in a manner consistent with the child's human dignity.
128. In principle, States can provide these rights in the context of both private and public educational institutions. Since private schools usually do not guarantee free primary education for all children, States are under an obligation to establish a sufficient number of public schools, hire the required number of qualified teachers and provide for the quality of education as laid down in international human rights law. As a first step, all States parties to the International Covenant on Economic, Social and Cultural Rights should work out and adopt, within two years after ratification, a detailed plan of action for the progressive implementation of the principle of compulsory primary education free of charge for all.
129. In addition to these positive obligations to fulfil the right to education, States have an obligation to respect the liberty of parents to establish and direct their own educational institutions, to choose private schools for their children and to ensure the religious and moral education of their children in conformity with their own convictions.

**Box 3: The right to education**

“ **ICESCR, art. 13:**

“1. The States Parties to the present Covenant recognize the right of everyone to education. They agree (...) that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
- (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.”

“ **ICESCR, art. 14:**

“Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.”

“ **General Comment No. 11 adopted by the CESCR (E/C.12/1999/4)**

“ **General Comment No. 13 adopted by the CESCR (E/C.12/1999/10)**

“ See also **CRC** (arts. 28 and 29 and **General Comment No. 1**); **CERD** (art. 5(e)(v)); **CEDAW** (art. 10)

“ **World Conferences:** **World Declaration on Education for All** (Jomtien, 1990); **Education for All Summit, The Delhi Declaration and Framework for Action** (1993); **Education for All: Dakar Framework for Action** (2000).

“ **Millennium Development Goal 2: Achieve universal primary education.**

### C. Key targets and indicators

#### ***Target 1: To ensure universal primary education for boys and girls as soon as possible, but no later than 2015***

##### Indicators:

- Net enrolment ratio in primary education
- Proportion of pupils starting grade 1 who reach grade 5
- Literacy rate in the age group 15-24
- Drop-out and attendance rates in primary schools
- Share of public expenditure on primary education

#### ***Target 2: To make free primary education available to all children***

##### Indicators:

- Proportion of primary school pupils in State schools not paying school fees
- Average fees paid by primary school pupils in State schools

#### ***Target 3: To implement compulsory primary education***

##### Indicator:

- Number of years' schooling made compulsory

#### ***Target 4: To eradicate illiteracy***

##### Indicators:

- Overall adult literacy rate
- Literacy rate in the age group 15-24

#### ***Target 5: To ensure equal access for all to secondary education***

##### Indicators:

- Net enrolment ratio in secondary education, disaggregated for poor and non-poor
- Share of public expenditure on secondary education
- Ratio of girls to boys in secondary education
- Drop-out and attendance rates in secondary education
- Proportion of children with disabilities attending secondary education

#### ***Target 6: To make free secondary education available to all children***

##### Indicators:

- Proportion of secondary school pupils in State schools not paying school fees, disaggregated for poor and non-poor

- Average fees paid by secondary school pupils in State schools

***Target 7: To eliminate gender disparity in primary and secondary education***

Indicators:

- Ratio of girls to boys in primary education
- Ratio of girls to boys in secondary education
- Ratio of literate females to males in the age-group 15-24

***Target 8: To improve the quality of primary and secondary education***

Indicators:

- Pupil-teacher ratio
- Teacher-classroom ratio
- Proportion of primary/secondary school pupils receiving textbooks free of charge

**D. Key features of a strategy for realizing the right to education**

130. Any human-rights based pro-poor education policy should ensure that the most vulnerable and marginalized groups in society have access, free of charge, to the most fundamental types of education, such as primary education, vocational training, literacy programmes and other forms of basic adult education. As a first step, States should formulate and adopt a detailed plan of action for the progressive implementation of the principle of compulsory primary education free of charge for all.
131. As a priority, States should ensure access to primary education for the most vulnerable and marginal, including girls, children with disabilities, minority and refugee children, and those living in remote areas and slums. According to the MDGs, gender disparity in primary education shall should be eliminated, preferably by the year 2005.
132. States should establish a sufficient number of educational institutions for adults that are targeted at the poorest groups in society and accessible to them free of charge. Vocational training shall should play an important role in the programmes of such institutions.
133. In addition to providing free and equal access to these types of education, Governments should ensure that the poor are not discriminated against when receiving education and that their drop-out rates are not significantly higher than those for other groups in society. Special support programmes should enable the poor to have access also to secondary and higher education. For example, poor children should be financially supported by scholarships and provided with transport to school, adequate textbooks, school meals and other services free of charge.
134. School discipline should be administrated in a manner consistent with human dignity. In particular, corporal punishment should be eliminated without delay.
135. Education should be directed to the full development of the human personality and strengthen respect for human dignity, tolerance, human rights and fundamental freedoms. Human rights should have an important place in all school curricula.

## Guideline 9: RIGHT TO DECENT WORK

### A. Importance of the right to decent work

136. Poor people invariably lack adequate and secure livelihoods. In the countryside and cities, they experience unemployment, underemployment, unreliable casual labour, poverty wages and unsafe working conditions. In the countryside, their livelihoods are made precarious by multiple factors such as: inadequate access to land and irrigation, lack of seeds and fertilisers, deficiencies of transport, and the overexploitation of common resources such as pastureland, forests and fish.
137. Confronted with this daily vulnerability, poor people often struggle to diversify their sources of income and food. They work on the land, in quarries and mines, take temporary and part-time jobs, sell goods in the streets, and do piecework in factories and at home. They suffer harassment and corruption from officials, as well as mistreatment from employers, with no form of redress. With their opportunities so limited, many poor people are drawn into work that is anti-social, dangerous and illegal, such as sex work, child labour, bonded labour and other slavery-like practices. They may become trapped by those trading in women and children.
138. Inadequate and insecure livelihoods are constitutive of poverty. Thus, the right to decent and productive work has a direct role to play in relation to PRS. Further, the enjoyment of this right is instrumental in securing other rights such as food, health and housing, which are also relevant to poverty reduction.
139. The Millennium Declaration highlights the importance of decent and productive work. Moreover, one Millennium Development Goal is to halve, by the year 2015, the proportion of people living on less than one dollar a day. Both provisions underline the importance of the right to decent and productive work in relation to poverty reduction.

### B. Scope of the right to decent work

140. The right to decent work encompasses productive and sufficient work of acceptable quality in which rights are protected and which generates an adequate income with adequate social protection. Sufficient work means that all have full access to income-generating opportunities. Thus, the right to decent work has three rights dimensions: the right to work, rights in work and the right to adequate social protection.
141. The right to decent work is not confined to wage employment, but extends to self-employment, home working and other income-generating activities. It demands the creation of a social, economic and physical environment in which all people have fair and equal opportunities to prosper by virtue of their own endeavour and in a manner consistent with their dignity. Thus, the right to decent work carries with it the responsibility to promote the personal capabilities and expand the opportunities for people to find productive work and to earn a decent livelihood.
142. Accordingly, the right to decent work implies the availability of both employment opportunities and the preconditions for income generation such as the availability of assets, credit and a favourable regulatory environment.
143. Rights in work include the right of everyone to the enjoyment of just and favourable conditions of work, including fair wages, equal remuneration for work of equal value, equal

opportunities, safe and healthy conditions of work, and reasonable hours of work and rest, as well as the rights to organize and bargain collectively. Various forms of work, such as bonded labour and other forms of slavery-like practices, are prohibited. All employment opportunities and income-generating activities must be of acceptable quality i.e. culturally appropriate and consistent with the dignity of the individual.

144. The right to decent work also requires that well-designed and adequate social safety mechanisms are put in place for those occasions, such as economic and political crises, when regular employment becomes unavailable to some individuals.

**Box 4: The right to decent work**

.. **ICESCR, art. 6:**

“1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.”

.. **ICESCR, art. 7:**

“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with: (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays”

◆ **ICESCR, art. 8:**

“1. The States Parties to the present Covenant undertake to ensure:

- (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
- (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations; (...)
- (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.”

.. **ICESCR, art. 9:**

“The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.”

**See also ICCPR, art. 22 (see box 9)**

.. **ICCPR, art. 8:**

- “1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
- 2. No one shall be held in servitude.
- 3. (a) No one shall be required to perform forced or compulsory labour;

◆ See also **CEDAW** (arts. 6 and 11), **CRC** (arts. 32, 34, 35 and 36), **CERD** (art. 5 e i), **ILO Conventions on Child Labour** (Conventions N° 138 and 182), **ILO Conventions on Forced Labour** (Conventions N°29 and 105), **ILO Conventions N° 87 on Freedom of Association and N° 98 on the right to Organize and Collective Bargaining**.

.. **World Conference: World Summit for Social Development (1995).**

## C. Key targets and indicators

### ***Target 1: Full employment***

#### Indicators:

- Rate of unemployment
- Rate of underemployment

### ***Target 2: All workers to be able to earn a minimum necessary income***

#### Indicators:

- Proportion of working poor (working but earning less than poverty-line income) in the labour force
- Proportion of labour force covered by minimum wage legislation

### ***Target 3: All workers to receive reasonable financial support during spells of unemployment.***

#### Indicator:

- Proportion of labour force covered by adequate social security provisions

### ***Target 4: To eliminate gender inequality in access to work***

#### Indicator:

- Female and male labour force participation rates

### ***Target 5: To eliminate gender inequality in remuneration for work***

#### Indicators:

- Average wages of males and females in different economic sectors
- Proportion of working poor in labour force disaggregated by gender

### ***Target 6: To eliminate child labour***

#### Indicators:

- Labour force participation rate of children under the age of 15
- Prevalence of the worst forms of child labour (in the sense of ILO Convention No.182)

### ***Target 7: To eliminate bonded labour***

#### Indicator:

- Proportion of bonded labourers in the workforce

**Target 8: All workers should be able to work in safe and healthy working conditions**Indicator:

- Proportion of the workforce working in hazardous conditions

**Target 9: No worker should be subject to unfair dismissal**Indicator:

- Proportion of the workforce covered by labour laws giving protection against unfair dismissal

**D. Key features of a strategy for realizing the right to decent work**

145. A strategy to realize the right to work in the context of poverty reduction must aim at improving the quantity and quality of work for poor people. This entails reducing unemployment/underemployment of the poor, on the one hand, and raising the return to their labour, on the other. For this to be possible on a wide and sustainable basis, action should be guided by three principles.
146. First, measures should be taken to improve the production potential of the economy on a sustained basis because without growth in economic activity an adequate quantity and quality of work cannot be provided for any substantial number of people in a sustainable manner.
147. Second, policies should ensure that growth in production takes place in such a way as to maximize the demand for labour, because it is only through greater demand for labour that unemployment and underemployment can be reduced and returns to labour increased. Policies that provide artificial incentives for the use of capital at the expense of labour – at the level of the aggregate economy – ought to be avoided, although in specific sectors greater capital intensity may sometimes be warranted on productivity grounds.
148. Third, conditions should be created to enable poor people, especially the poorest among them, to integrate into economic processes so that they can take advantage of labour-demanding growth.
149. While all three principles are important, the rights-based approach demands that special attention be given to the third principle since the factors preventing poor people from integrating into economic processes are often related to various kinds of violations of human rights. For example, social discrimination may prevent some of the poor from gaining access to certain types of jobs. Similarly, if people in certain groups are discriminated against in the provision of education and health care – for example, on the grounds of their ethnicity, religion or gender – they may not be able to acquire enough human capital to take advantage of expanding employment opportunities.
150. The precise nature of the impediments facing the poor in their efforts to integrate into economic processes varies from one case to another. An essential component of poverty reduction strategies consists in identifying and taking measures to eliminate them as expeditiously as possible. In particular, explicit acts of discrimination that prevent some individuals and groups from gaining access to an adequate quantity and quality of work must be ended immediately.

151. Even when explicit acts of discrimination are not involved, the poor may still face impediments because of the disadvantages that ensue from the state of poverty itself. Thus, poverty may prevent them from gaining adequate access to education, health care, credit, infrastructure, etc. Without such access, they will not have the assets – human, financial or physical – that are necessary for realizing the right to work. The human rights principle of equality and non-discrimination requires that priority be accorded to eliminating these impediments faced by the poor.
152. If some economic sectors are dominated by a few large employers, the State should take steps to encourage greater competition among producers, or else try to regulate the labour market so that employers cannot use their superior power to depress the wage level.
153. Laws should be passed, and accessible and effective procedures adopted, to ensure that workers enjoy just and favourable conditions of work, including fair wages, equal pay for work of equal value, safe and healthy working conditions, and reasonable hours of work and rest.
154. Workers must be given the legal power to organize and bargain collectively with employers so that the latter cannot use their superior bargaining strength to offer unfavourable terms of employment. However, care should be taken to ensure that labour market policies do not create a “protected” and non-poor labour aristocracy in the formal sector who can shut out competition from poor labourers working in the informal sector.
155. States must prohibit and eliminate bonded labour, forced prostitution, oppressive forms of child labour and other forms of employment strategies that the poor are often compelled to adopt as a means of coping with their poverty but which violate their human rights. These prohibitions must be combined with employment-creating policies so that the poor can earn their livelihood in a manner consistent with dignity and human rights.
156. An adequate system of social security must be put in place to protect the unemployed. This system should include standard unemployment insurance schemes, wherever applicable, as well as other safety-net mechanisms such as creation of short-term work for the poor unemployed and direct social transfers.

## **Guideline 10: RIGHT TO ADEQUATE HOUSING**

### **A. Importance of the right to adequate housing**

157. Most poor people are disadvantaged and endangered by the places and physical conditions in which they live. They experience precarious shelter, problems of overcrowding, sewage and pollution, seasonal exposure to the worst conditions, insecurity of person and property, remoteness, non-existent or inadequate infrastructure, including in terms of access to drinking water, and stigma. Poor housing reflects - and deepens - deprivation.
158. Homelessness, and living in dangerous and unsanitary housing, is constitutive of poverty. Thus, the right to adequate housing has a crucial role to play in relation to PRS. Further, enjoyment of the right to adequate housing is instrumental in securing other rights such as the right to health.

159. The importance of the right to adequate housing is underlined by the Millennium Development Goal that aims to achieve a significant improvement in the lives of at least 100 million slum dwellers by 2020.

## B. Scope of the right to adequate housing

160. The right to adequate housing should not be understood narrowly as the right to have a roof over one's head. Rather, it should be seen as the right to live somewhere in security, peace and dignity. This right has a number of components, including the following:

- (i) *Legal security of tenure*: everyone should enjoy legal protection from forced eviction, harassment and other threats;
- (ii) *Habitability*: housing must provide inhabitants with adequate space and protection from the elements and other threats to health;
- (iii) *Location*: housing must be in a safe and healthy location which allows access to opportunities to earn an adequate livelihood, as well as access to schools, health care, transport and other services;
- (iv) *Economic accessibility*: personal or household costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not compromised;
- (v) *Physical accessibility*: housing must be accessible to everyone, especially vulnerable groups such as the elderly, persons with physical disabilities and the mentally ill;
- (vi) *Cultural acceptability*: housing must be culturally acceptable to the inhabitants, for example reflective of their cultural preferences in relation to design, site organization and other features;
- (vii) Availability of *services, materials, facilities and infrastructure* that are essential for health, security, comfort and nutrition, such as safe drinking water, sanitation and washing facilities.

### Box 5: The right to adequate housing

.. **ICESCR, art. 11:**

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including ... housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

.. **General Comment No. 4 (E/1992/23) and General Comment No. 7 (E/1998/22, annex IV) adopted by the CESCR**

.. See also **CERD (art. 5), CEDAW (art. 14.2), CRC (arts. 16.1 and 27.3)**,

.. **World Conferences:** Habitat II: Istanbul Declaration, Declaration on Cities and Other Human Settlements in the New Millennium

.. **Millennium Development Goal 7: Ensure environmental sustainability (slum dwellers)**.

### C. Key targets and indicators

#### **Target 1: All people to have a home**

Indicators:

- Proportion of homeless people in the overall population
- Number of homeless shelter beds per homeless person

#### **Target 2: All people to enjoy security of tenure**

Indicators: Proportion of people in the overall population:

- With legal title (e.g. freehold, leasehold, collective tenure) to their homes
- With statutory or other (e.g. common law) legal due process protections with respect to eviction
- Living in informal settlements
- Squatting
- Forcibly evicted within a given period

#### **Target 3: All people to enjoy habitable housing**

Indicator:

- Average number of square metres per poor person or poor household

#### **Target 4: All people to enjoy housing situated in a safe and healthy location**

Indicator:

- Proportion of poor households within 5 kilometres of a hazardous site (e.g. toxic waste, garbage dump)

#### **Target 5: All people able to afford adequate housing**

Indicator:

- Monthly housing expenditure by median poor household as a proportion of its monthly income

#### **Target 6: Adequate housing physically accessible to all**

Indicator:

- Proportion of multi-unit residential buildings occupied by the poor that are accessible to persons with physical disabilities

**Target 7: All people to enjoy housing with access to essential services, materials, facilities and infrastructure**

Indicators: Proportion of households with:

- Potable water
- Sanitation facilities
- All-weather roads
- Electricity

**D. Key features of a strategy for realizing the right to adequate housing**

161. States should increase public expenditure on low-income housing programmes and develop tax credits and other incentives to encourage the construction of low-income housing in the private sector.
162. States should take steps to ensure security of tenure for the poor by, for example, prohibiting the practice of arbitrary forced evictions; developing quick and affordable measures for conferring title to slums and popular settlements currently without security of tenure; and expanding national land and housing registration systems to allow for the tenure rights of the poor.
163. Priority should be given to providing infrastructure (e.g. roads, water and sanitation systems, drainage and lighting) for existing low-income settlements by increasing public expenditure and providing incentives for the private sector.
164. In order to ensure that low-income groups are not compelled to spend a disproportionate percentage of their income on satisfying their basic housing requirements, States should introduce or expand housing subsidy programmes and, if necessary, resort to market regulation to prevent monopolistic pricing.
165. Formation of community-based housing organizations for the poor should be encouraged as a key means of neighbourhood and housing improvement.
166. Low-income groups should be provided with access to financial resources, including grants, mortgages and other forms of capital.
167. Assistance should be provided to low-income groups to develop their own housing finance and savings programmes.
168. States must develop housing policies for vulnerable and other groups with special housing needs, including persons with disabilities, the elderly, minorities, indigenous peoples, refugees and the displaced.
169. States must ensure that displaced persons are adequately resettled and provided with reasonable compensation.
170. Where the poor rely on self-built housing, States should provide them with essential resources, including appropriate building materials.

171. When developing housing policies for the poor, environmental considerations shall be taken into account with a view to ensuring that low-income housing is located in a safe and healthy environment.
172. All forms of housing discrimination and neighbourhood segregation must be prohibited.
173. States must ensure that women's rights to inherit housing, land and property are fully respected.

## **Guideline 11: RIGHT TO PERSONAL SECURITY**

### **A. Importance of the right to personal security**

174. Poor people usually suffer from various forms of insecurity. As well as experiencing financial, economic and social insecurity, they are often homeless, marginalized, discriminated against and subject to physical violence by State and non-State actors. Accordingly, efforts to strengthen the right of poor people to personal security shall have a crucial place in poverty reduction strategies.

### **B. The scope of the right to personal security**

175. The right to personal security is a human right independent of the right to personal liberty. If individuals or groups are subject to death threats, violent attacks, harassment, intimidation or severe discriminatory treatment, States have a positive obligation to provide a minimum standard of protection for their life, integrity and personal security.

#### **Box 6: The right to personal security**

.. **ICCPR, art.9:**

“1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

.. **General Comment No. 8 adopted by the HRC (sixteenth session, 1982)**

.. See also CERD (art. 5(b)), CRC (art. 37 b, c and d)

### C. Key targets and indicators

#### *Target 1: To eliminate violence against the poor by State and non-State actors*

##### Indicators:

- Crime rate disaggregated between poor and non-poor segments of society
- Ratio of killings, violent attacks and similar crimes against the poor to the overall crime rate
- Proportion of poor people subjected to police violence, harassment, intimidation, discrimination
- Ratio of police violence, harassment, intimidation, discrimination against the poor to overall police violence, harassment, intimidation, discrimination
- Proportion of poor people subjected to violent crime
- Rate of specific crime against women disaggregated between poor and non-poor segments of society

#### *Target 2: To ensure adequate police protection for poor people threatened with violence*

##### Indicators:

- Proportion of police actions aimed at preventing violence against the poor in relation to preventive police actions in general
- Ratio of police actions aimed at investigating violent crime against the poor to overall criminal investigative actions by the police

### D. Key features of a strategy for realizing the right to personal security

176. Policies aimed at eliminating, or at least substantially reducing, violence against the poor should clearly distinguish between violence by State and non-State actors. Violence may take the form of death threats, violent attacks, harassment, intimidation or severe discriminatory treatment. As women among the poor are particularly vulnerable to domestic and other forms of gender-specific violence, special measures should be taken to combat these crimes.
177. States should conduct education programmes for the population in general, and for the police in particular, aimed at promoting tolerance and non-discrimination towards the poor. In the recruitment of police and other security forces, the attitude of candidates to the poor and other particularly vulnerable groups of society should be taken into account.
178. Police protection should be provided in poor areas particularly affected by violence, harassment, intimidation and discrimination. Poverty reduction strategies should identify the worst affected areas, such as slums, and provide them with a sufficient number of specially trained law enforcement personnel.
179. A pro-poor security policy should provide the poor with equal and free access to the criminal justice system and bring the perpetrators of violence against the poor to justice (see Guideline 13). It should include special police measures to investigate violent crimes against the poor. When such crimes are committed by security forces, an effective and independent complaints

systems shall be available to the poor, and disciplinary action taken against the offenders.

180. States should provide shelter for homeless people subjected to violence, especially the most vulnerable among the poor such as women, children, elderly people and persons with disabilities (see Guideline 10).

## **Guideline 12: RIGHT TO APPEAR IN PUBLIC WITHOUT SHAME**

### **A. Importance of the right to appear in public without shame**

181. Poor people usually enjoy, to a much lesser degree than others, respect for their human dignity and rights to privacy, adequate clothing and participation in cultural life. They are often homeless and do not enjoy the protection which a home provides for a decent private and family life. They lack an adequate standard of living for themselves and their families, including adequate food, clothing and housing. As a socially marginalized group, the self-esteem of poor people is usually low, and they are often subjected to discriminatory attacks on their privacy, integrity, honour and reputation. The poor are often socially excluded, lacking the basic capability to appear in public without shame and to participate actively in the social, cultural and political life of their communities.

### **B. The scope of the right to appear in public without shame**

182. The right to appear in public without shame derives from several other human rights, in particular the rights to privacy, adequate clothing and to take part in cultural life. The right is also informed by one of the fundamental guiding principles of international human rights: the dignity of the individual.
183. Respect for the inherent dignity of all members of the human family is the foundation of freedom, justice, peace and all human rights. The guiding principle of the dignity of the individual goes beyond the prohibition of torture and degrading treatment and encompasses the obligation of States to ensure that all human beings have the necessary means to at least a minimum level of an adequate standard of living, including adequate food, clothing and housing.
184. The right to privacy guarantees that no human beings shall be subjected to arbitrary or unlawful interference by State or non-State actors, with their privacy, family, home or correspondence, nor to unlawful attacks on their honour and reputation. In addition, States parties are under a positive obligation to provide the protection of the law against such interference and attacks by private actors. The concept of privacy protects the particular area of individual existence and autonomy, including a person's appearance, identity, integrity, intimacy, sexuality, communication, family and home, that does not touch upon the liberty and privacy of others.
185. The right to adequate clothing forms an important part of the general right of everyone to an adequate standard of living. The type of clothing States shall make available to those in need,

in particular the poor, depends on the respective cultural, climatic and other conditions in the country concerned. As a minimum, poor people are entitled to clothes that enable them to appear in public without shame.

186. The right to take part in cultural life is respectful of cultural diversity and serves as a protection against social exclusion. Culture must be understood broadly to mean the shared way of living of a group of people, including their accumulated knowledge and understandings, skills and values, and which is perceived by them to be unique and meaningful. States have a responsibility to take all necessary measures to prevent the poor and other marginalized groups from being socially excluded and to enable them to participate in the social, cultural and political life of their respective communities.

#### Box 7: The right to appear in public without shame

“ **ICCPR, art. 7:**

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”

“ **ICCPR, art. 10:**

“1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”

“ **ICCPR, art. 17:**

“1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.”

“ **General Comment No. 16** (thirty-second session, 1988), **General Comment No. 20** and **General Comment No. 21** (forty-fourth session, 1992) adopted by the HRC

“ **ICESCR, art. 11:**

“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including ... adequate ... clothing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

“ **ICESCR, art. 15:**

“1. The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life ...”.

“ See also **CRC** (arts. 16, 27, 31, 37), **CERD** (art. 5 (e) (vi) and (f)), **CEDAW** (art. 13).

### C. Key targets and indicators

#### ***Target 1: Ability of poor people to appear in public without shame***

##### Indicators:

- Proportion of poor people who feel that they lack adequate clothing
- Proportion of poor people who are socially excluded
- Proportion of poor people who fear being discriminated against or dishonoured when taking part in cultural life

### D. Key features of a strategy for realising the right to appear in public without shame

187. Governments shall establish special programmes for the education of the police, administrative and judicial authorities, as well as the public at large, aimed at fostering tolerance and respect for the poor.
188. States shall also take special measures aimed at providing equal, efficient and free judicial protection of the poor against unlawful attacks on their dignity, privacy, integrity, honour and reputation.
189. In the context of poverty reduction strategies, States shall establish special programmes aimed at providing adequate clothing to the poor, enabling them to appear in public without shame.
190. States shall also take special measures to provide shelter for the homeless (see Guideline 10).
191. States shall enact legislation designed to respect and protect cultural diversity. They shall enable the poor to form associations for the protection of their interests and to organise meetings, social and cultural events in which poor people can participate without fear of being discriminated against or dishonoured (see Guideline 14). They shall develop special programmes to combat the social exclusion of poor people and other marginalized segments of society and to enable them to take part in the cultural life of their communities.

## **Guideline 13: RIGHT OF EQUAL ACCESS TO JUSTICE**

### A. Importance of the right of equal access to justice

192. Poor people are particularly vulnerable to human rights violations and abuses by governmental authorities and private individuals. The most important tool to defend themselves against these abuses is court protection. Usually, for economic or other reasons poor people lack the capability to obtain court protection. Even if free legal aid is available, they may lack the necessary information and self-confidence to seek redress from the courts. Thus, States should actively promote the free access of poor people to courts, tribunals and other dispute resolution mechanisms as a remedy against human rights violations.

193. In addition, poor people are accused of criminal behaviour more often than the non-poor. Whether they have committed a crime or not, they have a right to enjoy the minimum guarantees of a fair trial, such as the presumption of innocence. Experience shows that poor people are more likely than others to be discriminated against and deprived of these minimum guarantees.

#### **B. The scope of the right of equal access to justice**

194. All persons are equal before the courts and tribunals and enjoy certain procedural guarantees in civil and criminal trials. Equality before the courts means, in particular, that all persons must be granted, without discrimination, a right of equal access to an independent and impartial court or tribunal for the determination of civil disputes or criminal charges. The most important procedural guarantee in both civil and criminal proceedings is the right to a fair and public hearing, including the principle of equality of arms between all parties.

195. In criminal trials, a number of specific rights are granted to the accused, such as the presumption of innocence, the right to an adequate defence including the assistance of counsel, the right to examine witnesses, and the right not to be compelled to testify against oneself. Victims of crime should also be provided with equal access to justice and may require specific protection.

196. Some procedural guarantees explicitly refer to the needs of poor people: if an accused in a criminal trial does not have sufficient means to pay for legal assistance, Governments are under a positive obligation, if the interests of justice so require, to provide a counsel free of charge. Similarly, if accused persons do not understand or speak the language used in court, they should have the free assistance of an interpreter.

197. If poor people are victims of a human rights violation by State or non-State actors, they should be granted equal access to civil, administrative or constitutional courts, tribunals and other dispute resolution mechanisms free of charge as a remedy and an effective means of reparation.

**Box 8: The right of equal access to justice**.. **ICCPR, art. 14:**

“1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.”

.. See also **CRC (art. 40)**, **CEDAW (art. 15.2)**, **CERD (art. 5(a))**.

### C. Key targets and indicators

#### *Target 1: Equal access to civil justice for poor people as victims*

##### Indicators:

- Proportion of people availing themselves of civil justice mechanisms, disaggregated by gender and poverty
- Proportion of poor people having access to legal aid in civil matters
- Proportion of people availing themselves of specific human rights litigation, disaggregated by gender and poverty
- Proportion of poor people having access to legal aid for human rights litigation
- Number of judges and courts per unit of population
- Average distance between poor households and courts
- Average length of proceedings before civil and human rights courts and tribunals
- Level of corruption in the administration of civil justice

#### *Target 2: Fair trial for poor people accused of crime*

##### Indicators:

- Proportion of poor people sentenced for crimes in relation to the overall crime rate
- Level of corruption in the administration of criminal justice

#### *Target 3: As victims of crime, poor people should be able to bring the perpetrators to justice*

##### Indicator:

- Number of perpetrators sentenced for crimes against the poor as a percentage of number of crimes against the poor

### D. Key features of a strategy for realizing the right of equal access to justice

198. PRS should include special programmes to improve the free and equal access of the poor to courts, tribunals and other dispute resolution mechanisms and their right to a fair trial in both civil and criminal proceedings. Governments shall ensure that adequate justice mechanisms are available in sufficient number, and that they accessible to the poor and acceptable in terms of quality. With this objective in mind, Governments may establish innovative, non-formal dispute resolution mechanisms that are of good quality, accessible to the poor and consistent with all relevant human rights principles.

199. Measures to promote the poor's right of access to justice include the following:

- (a) Introducing information campaigns, in slums and other areas where the poor live, on the right of access to justice:

- (b) Increasing the number of courts, tribunals and non-formal dispute resolution mechanisms;
- (c) Increasing the number of judges and law enforcement personnel, especially in poor areas;
- (d) Increasing the salary of judges and law enforcement personnel;
- (e) Establishing law clinics for the poor;
- (f) Extending legal aid programmes for the poor in both civil and criminal proceedings;
- (g) Establishing training programmes for judges, lawyers and law enforcement personnel on the right of the poor to non-discrimination;
- (h) Improving the enforcement of judgements by the relevant authorities;
- (i) Improving the poor's physical access to courts, non-formal dispute resolution mechanisms and law enforcement officers, in particular in remote rural areas;
- (j) Eliminating corruption in the administration of justice;
- (k) Helping poor victims of crime bring offenders to justice.

## **Guideline 14: POLITICAL RIGHTS AND FREEDOMS**

### **A. Importance of political rights and freedoms**

200. Usually, poor people are socially excluded and belong to politically marginalized groups. They lack the information and political power necessary for meaningful participation in political decision-making processes. As they are under-represented in political decision-making bodies, their specific needs are often neglected. Accordingly, lack of political rights and freedoms is both a cause and a consequence of poverty. Socially and politically excluded people are more likely to become poor, and the poor are more vulnerable to social exclusion and political marginalization.
201. Lack of political rights and freedoms is constitutive of poverty if inadequate command over economic resources plays a role in its causation. Active participation in political decision-making processes plays a role in expanding political freedoms and in empowering people, which in turn contributes towards combating social exclusion and political marginalization. In addition, the enjoyment of political rights and freedoms is instrumental in securing other human rights such as education, work, health and equal access to justice. Enabling the poor to participate in the conduct of public affairs should therefore form an integral part of a poverty reduction strategy.
202. Those human rights that are essential for the participation of civil society, including the poor, in a free and democratic society are usually referred to as political rights and freedoms. Apart from the general political right of citizens to take part in the conduct of public affairs, a number of political freedoms are essential for the effective participation of the poor, starting with the right to information. In addition to a lack of command over economic resources, poor people usually lack the information they need to obtain equal access to education, work, health services, courts, the police or political decision-making processes. Thus, the right to information is a crucial human right, which enables poor people not only to participate actively in the conduct of public affairs but also to overcome other capability failures.

203. The right to information and other political rights and freedoms are essential in the context of PRS, both from a substantive and from a procedural point of view. As substantive human rights, the right to vote, equal access to public service, and freedom of expression and association empower the poor to overcome capability failures that are constitutive of poverty. As procedural rights, they enable the poor to participate actively in the formulation, implementation and monitoring of PRS (see Guideline 5).

## **B. Scope of political rights and freedoms**

204. Political rights are usually defined as the right and opportunity to take part in the conduct of public affairs, directly or through freely chosen representatives, for instance by means of the right to vote and to be elected in parliamentary and other elections, and the right of equal access to public service. Political freedoms include essential democratic rights such as freedom of speech, expression, information, association, assembly and the media. While political rights are usually restricted to citizens, political freedoms are general human rights to be equally enjoyed by all human beings, regardless of citizenship or other status.

205. The right to seek and receive information establishes the duty of Governments to provide the poor, and their freely chosen representatives, with all relevant information concerning governmental activities and services. This includes information in respect of governmental services that are essential for the poor, such as access to education, health services, employment services, social security, administration of justice and the political decision-making processes. From a procedural point of view, Governments have a specific obligation to provide the poor with all relevant information in the stages of preparing, implementing and monitoring a PRS. The meaningful participation of the poor in a country-driven PRS is only possible on the basis of a comprehensive information campaign specifically addressing the poor.

206. The right to freedom of expression guarantees the right of the poor and their representatives to express and impart any opinions, ideas or information, in relation to the PRS process and in general, either orally, in writing or in print, in the form of art, or through any other media. The right to freedom of assembly means that all persons, including the poor, have a right collectively to express their opinions by organizing demonstrations and similar types of public meetings in order to attract the attention of the Government, the media and the public at large. Lastly, all persons have the right to freedom of association with others, including the right to form and join trade unions, for the more effective protection of their interests. For instance, the poor may decide either to establish special associations, unions, political parties or foundations, or to join existing institutions, in order to make their collective voices heard, both in the process of developing, implementing and monitoring a PRS and in general.

207. Although the exercise of these political freedoms carries with it special duties and responsibilities, and may therefore be subject to certain restrictions, such limitations must be prescribed by law and must be necessary in the interests of certain public goals, such as national security, public order, health and morals, or for the protection of the rights and freedoms of others. The content of relevant ideas, opinions and information articulated by the poor in order to improve their situation and to participate in the PRS process will rarely give rise to legitimate governmental restrictions, but the form of their expression, for instance by way of public demonstrations, might justify certain limitations in the interest of public order or crime prevention. Governments must, however, prove that such restrictions are necessary in a democratic society for the purpose of achieving the respective public goal. This means any limitations must be proportional and non-discriminatory.

### Box 9: Political rights and freedoms

“ **ICCPR, art. 19:**

“1. Everyone shall have the right to hold opinions without interference.  
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.  
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals.”

“ **General Comment No. 10 (nineteenth session, 1983) adopted by the HRC**

“ **ICCPR, art. 21:**

“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

“ **ICCPR, art. 22:**

“1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.  
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.  
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.”

**See also ICESCR, art. 8 (see box 4)**

“ **ICCPR, art. 25:**

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”

“ **General Comment No. 25 (fifty-seventh session, 1986) adopted by the HRC**

“ **See also CERD (art. 5(c), (d) (viii) and (ix)), CEDAW (art. 7), CRC (arts. 13 and 15).**

### C. Key targets and indicators

***Target 1: To ensure full and equal participation of poor people in the conduct of public affairs, by means of parliamentary, regional and local elections, referenda and similar decision-making processes***

Indicators:

- Proportion of poor and non-poor people going to the polls
- Proportion of poor and non-poor people elected to public bodies at the local, regional and national level
- Proportion of poor and non-poor people appointed to public office

***Target 2: To ensure equal enjoyment by poor people of the right to freedom of association***

Indicators:

- Proportion of poor people belonging to any association established by the poor themselves
- Number of associations, unions, political parties, foundations and media established by the non-poor for the protection of the interests of the poor

***Target 3: To ensure equal enjoyment by poor people of the right to freedom of assembly***

Indicator:

- Number of public meetings, demonstrations or strikes organized by the poor or on their behalf

***Target 4: Equal enjoyment of the right to information by poor people***

Indicators:

- Number of public information activities organized by Governments directly addressing the poor
- Number of media programmes directly addressing the poor
- Circulation of print media in vernacular languages
- Share of public expenditure on dissemination of information to the poor

***Target 5: Full participation of the poor in the formulation, implementation and monitoring of PRS***

Indicators:

- Proportion of poor people who are aware of a PRS process in their country

- Proportion of poor people who participate in public PRS information meetings
- Proportion of poor people who participate in the formulation of PRS
- Proportion of poor people who participate in the implementation of PRS
- Proportion of poor people who participate in the monitoring and accountability of PRS

#### **D. Key features of a strategy for realizing political rights and freedoms**

208. States should organize public information campaigns directly addressing the poorest sectors of society and informing the poor about their rights as well as relevant governmental services aimed at poverty reduction, including free access to education, health and social security services, the administration of justice and other services. If Governments wish to withhold certain information from the public, and the poor in particular, they have the burden of proving why such information should not be disclosed to the public. The public, and the poor in particular, should have a right to appeal to a court or other independent body against a decision to withhold certain information. The poor should also be informed of their right to participate actively in the PRS process and in the conduct of public affairs in general.
209. The poor should be encouraged and enabled to participate actively in the formulation, implementation and monitoring of PRS and in the conduct of public affairs in general, at both the central and local levels of political decision-making structures. Governments should eliminate all legal barriers which might prevent the poor from participating in elections and other democratic decision-making procedures (referenda, popular initiatives, etc.) such as literacy tests, settlement requirements and similar educational or economic preconditions for voter registration, or the exclusion of beggars, vagrants, alcoholics and similar persons of low social status from the political rights to vote, to be elected and to have equal access to public service. As the relevant human rights norms refer to both “the right and the opportunity“, without any discrimination, to participate in the conduct of public affairs, Governments have a special duty to guarantee with positive measures that all formally eligible persons have the actual opportunity to exercise their political rights. For example, Governments should make special efforts to provide voter education facilities addressed to the poor and to organize the voting process in a way that ballot boxes are easily accessible to poor people living in slums or in remote rural areas.
210. The poor should be encouraged and enabled to express, freely and publicly, their opinions, ideas, political claims and criticism of governmental policies, both within the PRS process and beyond, without any arbitrary restrictions and limitations. In order to make the voices of the poor heard, Governments should design and establish special non-bureaucratic, accessible and effective institutions such as poverty Ombuds, to which the poor can address their concerns, opinions and demands.
211. The poor should further be encouraged and enabled to form their own special associations, unions, political parties or foundations for the more effective protection of their rights and interests. These organizations of the poor should be invited to participate actively in all stages of the PRS and other relevant governmental processes and forums.
212. All media owned or controlled by Governments should pay particular attention to the situation of the poor, actively contribute to public pro-poor information campaigns and provide a public platform where the voices of the poor are heard. Other media should be encouraged by Governments to play a similar role in supporting the interests of the poor.

## **B: THE INTERNATIONAL LEVEL**

### **Guideline 15: RIGHT TO INTERNATIONAL ASSISTANCE AND COOPERATION**

#### **A. Importance of the right to international assistance and cooperation**

213. The Millennium Declaration repeatedly affirms the twin principles of global equity and shared responsibility. For example: "Global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most." The Declaration emphasizes: "We will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected." And it adds: "We resolve therefore to create an environment - at the national and global levels alike - which is conducive to development and to the elimination of poverty." One of the Millennium Development Goals is to "develop a global partnership for development".
214. Thus, it is universally recognized that effective poverty reduction requires international action. More specifically, the Declaration makes a commitment to "an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system". Access to aid, debt relief, markets, substantial and affordable capital flows, as well as stability in the global economy, have an impact on the options open to a State as it formulates and implements its PRS. In international human rights law, the principles of global equity and shared responsibility are reflected in the right of international assistance and cooperation. Respect for this right helps to create an environment in which the poor from developing States can lift themselves out of poverty.

#### **B. Scope of the right to international assistance and cooperation**

215. The origins of the right to international assistance and cooperation may be traced to Article 1 of the Charter of the United Nations which states that one of the purposes of the United Nations is: "To achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms". The notion of right extends, through Articles 55 and 56 of the Charter, to articles 22 and 28 of the Universal Declaration of Human Rights. According to article 22: "Everyone ... is entitled to realization, through national effort and international cooperation ... of the economic, social and cultural rights indispensable for his dignity and free development of his personality." The International Covenant on Economic, Social and Cultural Rights refers to international assistance and cooperation, or similar formulations, in five articles, and the right has found more recent expression in another binding treaty, the Convention on the Rights of the Child. International assistance and cooperation may be regarded as one element of the more extensive right to development which was affirmed in the Vienna Declaration and Programme of Action (1993). More recently, 147 Heads of State and Government – 191 nations in total – recognized explicitly in the Millennium Declaration the link between the realization of the right to development and

poverty reduction, and committed themselves to make “the right to development a reality for everyone” and to free “the entire human race from want.”

216. Like a number of other rights, the parameters of the right to international assistance and cooperation are not yet clearly drawn. However, in principle, it requires that all those in a position to assist should, first, refrain from acts that make it more difficult for the poor to realize their human rights and, second, take measures to remove obstacles that impede the poor's realization of their human rights. Thus, the right to international assistance and cooperation should not be understood as encompassing only financial and technical assistance: it also includes an obligation to work actively towards equitable multilateral trading, investment and financial systems that are conducive to the reduction and elimination of poverty.

#### Box 10: Right to international cooperation and assistance

##### “ Charter of the United Nations:

Art 1.3: “The Purposes of the United Nations are: . . . To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;”.

Art. 55: “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: a. higher standards of living, full employment, and conditions of economic and social progress and development; b. solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

Art. 56: “All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.”

##### “ ICESCR, art. 2.1:

“1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

“ General Comment No. 2 (International technical assistance measures, E/1991/23), General Comment No. 3 (Nature of States parties’ obligations) and General Comment No. 8 (Sanctions, E/C.12/1997/8) adopted by the CESCR.

See also ICESCR, arts. 11.2, 15.4, 22 and 23).

“ See also CRC (arts. 4 and 24.4), UDHR (arts. 22 and 28).

“ World Conferences: Vienna Declaration and Programme of Action (1993), Third United Nations Conference on the Least Developed Countries: Declaration and Programme of Action (2001); Monterrey Consensus of the International Conference on Financing for Development (2002); Agenda 21.

“ Millennium Development Goal 8: Develop a global partnership for development.

“ 1986 Declaration on the Right to Development

### C. Key targets and indicators

#### *Target 1: Fair and equitable Official Development Assistance*

##### Indicators:

- Net ODA as percentage of DAC donors' GNP (targets of 0.7% in total and 0.15% for LDCs)
- Ratio of ODA to basic social services (basic education, primary health care, nutrition, safe water and sanitation)
- Proportion of ODA that is untied
- Proportion of ODA directed to poverty reduction

#### *Target 2: Tariff- and quota-free access for developing States*

##### Indicators:

- Proportion of exports (by value and excluding arms) admitted free of duties and quotas
- Average tariffs and quotas on agricultural products and textiles and clothing
- Domestic and export agricultural subsidies in OECD countries

#### *Target 3: Enhance programme of debt relief*

##### Indicators:

- Proportion of official bilateral HIPC debt cancelled
- Debt service as a percentage of exports of goods and services
- Proportion of ODA provided as debt relief
- Number of countries reaching HIPC decision and completion points

### D. Key features of a strategy for realizing the right to international assistance and cooperation

217. A developed State should not only formulate a PRS in relation to poverty within its domestic jurisdiction; it should also have a strategy for poverty reduction beyond its borders. Equally, a developing State's PRS should include a chapter on the steps it will take, in relation to global actors, that will enhance its national poverty strategy.

#### Developed States

218. When formulating their international PRS, developed States should:

- (i) Take into account their international human rights obligations to engage in international assistance and cooperation; their commitments entered into during recent world conferences; and the MDGs.

(ii) Take measures to ensure the coherent and consistent application of these obligations across their international policy-making processes. For example, the State's obligations of international cooperation should be understood and respected by those responsible for foreign affairs; those in finance and trade who represent the State in international negotiations on those issues; and State representatives who are responsible for multilateral development policies and projects, including those of the Bretton Woods institutions.

(iii) Ensure that all bilateral and multilateral decision-making processes are fair, equitable and transparent, and sensitive to the needs of developing States, especially their vulnerable and marginal individuals and groups, including the poor.

(iv) Ensure that, in accordance with the United Nations target, their development assistance is no less than 0.7% of GDP; they should also carefully examine the quality of their development assistance, support human rights-related development projects and help developing States fulfil their international and national human rights obligations.

(v) Ensure that the commercial activities for which a State has direct responsibility conform to international human rights standards.

(vi) Take reasonable measures to ensure that the overseas operations of companies headquartered in their jurisdiction are respectful of the international human rights obligations of both the home and host State.

(vii) Consistent with the principle of country ownership, respect the international human rights obligations of other States to individuals and groups within their jurisdiction.

### Developing States

219. Poor people and poor countries should have a greater voice in international forums to ensure that international priorities, agreements and standards reflect their needs and interests. Accordingly, developing States should endeavour to enhance their multilateral and bilateral negotiating capacity.

220. The operations of TNCs may have a significant impact on poverty in developing countries. In some cases, the resources of TNCs far exceed the resources available to a State. Accordingly, developing States should endeavour to enhance their negotiating capacity in relation to their dealings with TNCs.

221. International assistance should also be sought to help developing States establish appropriate regulatory frameworks for the private sector, including TNCs, without compromising the States' comparative advantage.

222. When a developing State is engaging in bilateral, multilateral or corporate negotiations, the State should give the most careful attention to its international human rights obligations to the poor in its jurisdiction. The State may wish to argue that these obligations constitute an international minimum threshold below which individuals and groups within its jurisdiction may not fall and that, therefore, it is impermissible for the State to conclude any agreement that is inconsistent with the international human rights it owes to the poor in its jurisdiction.

223. Before any relevant international agreement or policy is adopted, there must be an independent, objective and publicly available assessment of its impact on the poor. If the

assessment suggests that the proposed agreement or policy will have a negative impact on the human rights of the poor, effective countervailing measures must be adopted, consistent with the international human rights obligations of the concerned parties.

### **Section III. MONITORING AND ACCOUNTABILITY: THE REQUIREMENTS OF A HUMAN RIGHTS APPROACH**

#### **Guideline 16: PRINCIPLES OF MONITORING AND ACCOUNTABILITY**

224. The objective of monitoring is twofold: (i) to help identify, on an ongoing basis, the areas on which a duty-bearer may need to concentrate or to which it may need to redirect its attention if its targets for the realization of human rights are to be attained in the most expeditious and effective manner, and (ii) to enable a right-holder to hold a duty-bearer to account for its failure to discharge its duties.
225. An accountability procedure depends on, but goes beyond, monitoring. It is a mechanism or device by which duty-bearers are answerable for their acts or omissions in relation to their duties. An accountability procedure provides right-holders with an opportunity to understand how duty-bearers have discharged, or failed to discharge, their obligations, and it also provides duty-bearers with an opportunity to explain their conduct. While accountability implies some form of remedy and reparation, it does not necessarily imply punishment. (See Guideline 17 for remedy and reparation.)
226. Broadly speaking, there are four categories of accountability mechanism:
- Judicial, e.g. judicial review of executive acts and omissions;
  - Quasi-judicial, e.g. Ombuds institutions, international human rights Treaty-bodies;
  - Administrative, e.g. the preparation, publication and scrutiny of human rights impact assessments;
  - Political, e.g. parliamentary processes.
227. In some cases, the same institution performs both a monitoring and an accountability function. In other cases, one institution monitors and another institution provides an accountability procedure.

228. In the context of poverty reduction, monitoring and accountability procedures present a unique challenge. In some cases, existing procedures, such as current local government and judicial processes, may provide suitable monitoring and accountability mechanisms. In most cases, however, existing procedures will not be adequate. Usually, to secure the active and informed participation of the poor, existing procedures will have to be either reformed or supplemented by additional monitoring and accountability arrangements. In the context of poverty reduction, all duty-bearers are encouraged to devise, in close collaboration with the poor, innovative and non-formal monitoring and accountability mechanisms that secure the active and informed participation of the poor.
229. The form and mix of monitoring and accountability procedures will vary from one duty-bearer to another. However, all duty-bearers must ensure that, in relation to the discharge of their obligations, there are accessible, transparent and effective monitoring and accountability procedures.
230. Under international law, the State is the principal duty-bearer with respect to the human rights of the people living within its jurisdiction. However, the international community at large also has a responsibility to help realize universal human rights. Thus, monitoring and accountability procedures must not only extend to States, but also to global actors – such as the donor community, intergovernmental organizations, international NGOs and TNCs – whose actions bear upon the enjoyment of human rights in any country.

## **Guideline 17: MONITORING AND ACCOUNTABILITY OF STATES**

231. The duty of the State with regard to any human right is of three kinds: to respect, to protect, and to fulfil (see Introduction, para. 6). The duty to fulfil in turn has two components – to facilitate and to provide. The human rights approach to poverty reduction demands that appropriate monitoring and accountability procedures be established in respect of all of these elements.
232. States' obligations are usually subject to both internal and external monitoring and accountability procedures.

### Internal procedures

233. As the people's representatives, parliaments and parliamentary committees must be enabled to play an important monitoring role. In many cases, this will call for enhancement of the power of parliament – for example to require the Government to disclose necessary information to, and subject itself to scrutiny by, parliamentary committees. In addition, this will often require educating parliamentarians about the intricacies of planning and budgetary processes.
234. Decentralization and democratization of local-level governance will also be needed to enable the people, especially the poor, to monitor the activities of government that have an immediate and direct effect on the realization of their human rights.
235. The State must create a legal framework within which civil society organizations can perform an independent monitoring role. In particular, the State must take immediate steps to realize a set of interrelated rights, such as the rights to information, free speech and association, without which independent monitoring will not be possible.

236. Accountability mechanisms must provide remedies for human rights violations. Individuals not only have a right to enjoy the various substantive human rights that their Governments have accepted, but also a procedural right to an effective remedy before a domestic body in case their human rights have been violated.
237. A remedy is only effective if the respective domestic authority has the competence to grant reparation to the victim of a human rights violation. There are various types of possible reparation depending on the seriousness of the violation and the particular circumstances of the case, such as full restitution, compensation, rehabilitation, apologies and other forms of satisfaction, general guarantees of non-repetition and, in exceptional cases, punishment of the individual perpetrators.
238. The right to an effective domestic remedy does not necessarily require a judicial procedure. States have an obligation to ensure that any person claiming a remedy shall have his or her right determined by a competent judicial, administrative or legislative authority, or any other competent authority provided for by the legal system of the State. In addition, States must ensure that the competent authorities enforce such remedies when granted.

#### External procedures

239. By ratifying human rights treaties, States parties have agreed to make themselves answerable to Treaty-bodies, thereby subjecting themselves to a form of external monitoring and accountability. States parties have treaty obligations to comply with the relevant procedures provided for in the treaties, such as reporting, complaints and inquiry procedures. States also have obligations to cooperate with other external monitoring and accountability mechanisms, such as the special procedures established by the United Nations Commission on Human Rights.
240. External monitoring and accountability procedures are subsidiary to the equivalent internal procedures. For example, victims of a human rights violation can only submit an individual complaint to an international Treaty-body after they have exhausted all effective and available domestic remedies. Similarly, the reporting system can only be effective if Governments prepare their State reports in a transparent and participatory process involving all relevant domestic civil society actors before submitting the report to the respective international Treaty-body.

### **Guideline 18: MONITORING AND ACCOUNTABILITY OF GLOBAL ACTORS**

241. The general observations already made concerning monitoring and accountability procedures apply equally to global actors, such as the donor community, intergovernmental organizations, international NGOs and TNCs.
242. Actions of the international community, for example, in the spheres of trade, aid, migration and private capital inflow, will have an impact on the options open to a State as it formulates and implements its PRS. These actions must conform to the global actors' human rights responsibilities.
243. Crucially, all global actors must ensure that there are accessible, transparent and effective monitoring and accountability procedures in relation to their poverty reduction policies and

human rights responsibilities. These procedures must secure the active and informed participation of the poor.

244. States determine the policies of some global actors, including the World Bank, the IMF and the WTO. When determining the policies of such global actors, a State must conform to its international human rights duties and must be respectful of other States' international human rights obligations. How a State discharges its duties when determining the policies of global actors must be subject to monitoring and accountability procedures as outlined in the preceding section.
245. In their own capacity, however, such global actors must be subject to accessible, transparent and effective monitoring and accountability procedures. If global actors fail to establish appropriate monitoring and accountability mechanisms in relation to their poverty reduction and human rights responsibilities, others should take steps to do so.
246. The activities of TNCs, which may have a significant impact on poverty reduction and human rights in the States in which they operate, raise important monitoring and accountability issues.
247. First, TNCs themselves must establish accessible, transparent and effective monitoring and accountability procedures in relation to their poverty reduction and human rights responsibilities.
248. Second, the State in which a company with overseas operations is headquartered has a responsibility to take reasonable measures to ensure that the overseas operations are respectful of the international human rights obligations of both the home and host State. This responsibility of the State should be subject to accessible, transparent and effective monitoring and accountability procedures.
249. Third, a host State has a responsibility to ensure that TNCs operating in its jurisdiction conform to the national and international human rights obligations of that State. Accordingly, there must be monitoring and accountability mechanisms in relation to the host State's obligation to regulate the conduct of such TNCs.

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