



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/47
16 February 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Effects of structural adjustment policies and foreign debt on the full enjoyment
of human rights, particularly economic, social and cultural rights**

**Report submitted by Mr. Bernard Mudho, independent expert on the effects
of structural adjustment policies and foreign debt on the full enjoyment of all
human rights, particularly economic, social and cultural rights***

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

Summary

This report is hereby presented pursuant to Commission resolution 2003/21 whereby it recalled that the purpose of the Universal Declaration of Human Rights is the full promotion and protection of human rights and fundamental freedoms and stressed that one of the purposes of the United Nations is to achieve international cooperation in solving international problems, inter alia, of economic, social, cultural and humanitarian character.

To that end, the Commission further recalled that everyone is entitled to a social and international order in which rights and freedoms set forth in the Universal Declaration can be fully realized; emphasizing that the World Conference on Human Rights in 1993 called upon the international community to make all efforts to help alleviate the external debt burden with a view to supplementing the efforts of the Governments of heavily indebted developing countries to attain the full realization of economic, social and cultural rights of their people.

In that context, the Commission also recalled that, in the Millennium Declaration, all States resolved to respect fully and uphold the Universal Declaration of Human Rights. It stressed the determination expressed in the Millennium Declaration to deal comprehensively and effectively with the debt problems of low- and middle-income developing countries, through various national and international measures designed to make their debt sustainable in the long term. It noted with great concern that the continuing debt and debt-servicing problems of the heavily indebted poor countries have adversely affected the sustainable development efforts of such countries.

Thus the Commission acknowledged the increasing acceptance that the spiralling debt burden faced by most indebted developing countries, in particular the least developed countries, is unsustainable and constitutes one of the principal obstacles to achieving progress in people-centred sustainable human development and poverty eradication. As well, for many developing countries, as well as countries with economies in transition, excessive debt servicing has severely constrained their capacity to promote social development and provide basic services to realize economic, social and cultural rights.

Against this backdrop, the Commission took note of the report of the independent expert (E/CN.4/2003/10 and Corr.1) which highlighted a few so-called “success stories”, and of his conclusion that the fragile sustainability of the debt burden of the heavily indebted poor countries (HIPCs) continued to pose a serious obstacle to poverty eradication in those countries and affected low- and medium-level countries and economies in transition. The Commission requested the independent expert to pay particular attention in his future analytical annual reports to the effects of the burden of foreign debt and policies adopted to face them on the capacity of the Governments of the developing countries to adopt policies and programmes for the enjoyment of economic, social and cultural rights, as well as to recommend measures and actions that could be taken to alleviate such effects, especially in the poorest and heavily indebted countries.

In the present report, therefore, the independent expert has attempted to provide an analysis of the progress made under the Heavily Indebted Poor Countries (HIPC) initiative, which is presently widely regarded as the path to debt sustainability, economic growth and release of resources for social expenditures leading to poverty reduction. In doing so, the

independent expert has also sought to discern the response of States, international financial institutions and the private sector to the Commission's call, as addressed to the international community in general in and, in particular to States, international financial institutions and the private sector in paragraphs 6, 7, 8 and 15 of its resolution 2003/21.

While noting the progress made under the HIPC initiative and particularly its explicit link to poverty reduction goals, the independent expert points out the danger of the HIPC initiative being seen as an end in itself rather than a means to achieve the poverty reduction goals. In his view, it is prudent to recognize that the HIPC is a limited instrument which allows heavily indebted poor countries to have a fresh start in their overall development efforts. For the HIPC initiative to contribute effectively to the overall enjoyment of economic, social and cultural rights, it needs the combined reinforcement by other developmental actions and measures by the affected countries and the international community at large.

In increasing the effectiveness of the HIPC initiative and resources made available through other initiatives, the independent expert places an emphasis on the importance of building capacities in the heavily indebted and poor countries to strengthen the national budget process. Considerations of human rights principles such as non-discrimination, equality and participation need to be integrated into all stages of the public budget formulation, approval and monitoring phases. Towards this end, the independent expert recommends in particular that the capacities of legislative bodies, which are constitutionally charged with budget oversight and monitoring, be strengthened and their awareness on economic, social and cultural rights increased. Consideration should also be given to the role national human rights institutions can play in monitoring the public expenditure performance and the implementation of the HIPC, Poverty Reduction Strategy Paper (PRSP) and other relevant initiatives, to ensure that these contribute to the enjoyment of human rights, particularly economic, social and cultural rights.

In further analysing the impact of structural-adjustment policies and foreign debt on the enjoyment of economic, social and cultural rights, the independent expert points out the need to examine the interlinkages between these issues and other issues such as multilateral trade and global initiatives to achieve the Millennium Development Goals, including on HIV/AIDS, as these issues have become increasingly intertwined in today's international environment. The Monterrey Consensus (see A/CONF.198/11) that emerged from the International Conference on Financing for Development, held in March 2002, provides a useful framework to address the interlinkages among debt, structural adjustment, trade and other issues, as highlighted in this report. The independent expert proposes to contribute to this process by bringing its attention to the issue of the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights.

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Introduction

1. In its resolution 2003/21, the Commission decided to renew the mandate of the independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights, for three years and requested him to submit an analytical report to the Commission on an annual basis on the implementation of resolution 2003/21, paying particular attention to the effects of the burden of foreign debt and the policies adopted to face them on the capacity of the Governments of developing countries to adopt policies and programmes for the enjoyment of economic, social and cultural rights, and to recommend measures and actions that could be taken to alleviate such effects, especially in the poorest and heavily indebted countries.
2. Pursuant to the above resolution, and in accordance with Commission resolution 2000/82 which originally established this mandate, the independent expert submits the present report and its addendum for the consideration of the Commission. In this introductory section, he presents a brief overview of his activities undertaken since the last report, including an outline of his approach to the present report and future work.
3. The independent expert undertook a mission to Uganda from 26 to 30 May 2003, the report on which is submitted as an addendum to this report (E/CN.4/2004/47/Add.1). The independent expert wishes to thank the Government of Uganda for its invitation and cooperation in realizing the mission, as well as the United Nations agencies, the International Monetary Fund (IMF), the World Bank and non-governmental organizations based in Uganda that provided valuable information and insights.
4. In the execution of his mandate, the independent expert continued to carry out dialogues and engage in exchange of views with the main relevant international financial institutions. To that end, he undertook a mission to Washington, D.C., for consultations with the World Bank and IMF on 24 and 25 November 2003. He also met with the director of the Financing for Development Office at the Department of Economic and Social Affairs of the Secretariat in New York on 26 November 2003, immediately following his mission to the World Bank and the International Monetary Fund. The discussions held both with the World Bank and IMF as well as those with the Department DESA proved informative and useful. The independent expert, therefore, intends to continue these useful exchanges of views on an annual basis, or as often as required, in order to bring to the attention of the Commission, in his annual reports, up-to-date information on the new initiatives and major developments as required by his mandate.
5. In his first report submitted to the Commission (E/CN.4/2003/10), the independent expert reviewed the impact of the current major policy initiatives of the international financial institutions, namely the Poverty Reduction Strategy Papers (PRSPs) and the Heavily Indebted Poor Countries (HIPC) initiative. He also presented a case study on Bolivia, based on his mission to that country in 2002, which generally found that, despite efforts by the international institutions and national Governments and a few tentative success stories, the fragility of the sustainability of the debt burden of concerned countries seemed to have undermined the significance or sustainability of perceived positive impact on poverty.

6. In the first section of the present report, the independent expert reviews the recent progress in the implementation of the HIPC initiative from the perspective of his mandate. In the second section, he then attempts to explore how national budgeting processes are linked to the overall process of realization of all human rights, in particular economic, social and cultural rights. In the third section, he alludes to the need to adopt a broader approach to analyse the effects of structural adjustment policies and foreign debt on the enjoyment of human rights, in view of the interrelatedness of macroeconomic policies, trade policies and development policies in the globalized environment. The report concludes with several recommendations to States, international financial institutions and other stakeholders.

I. PROGRESS UNDER THE HEAVILY INDEBTED POOR COUNTRIES (HIPC) INITIATIVE

A. Recent review of the HIPC initiative

7. The HIPC initiative, originally launched at the World Bank-IMF Annual meeting in 1996 and subsequently enhanced in 1999, marked a turning point in the global partnership to address one of the most serious problems in the developing world: debt sustainability. The goal of HIPC, as revised in 1999, is to ensure deep, broad and fast debt relief with a strong link to poverty reduction. Recent global summits and international conferences, from the Millennium Summit to Monterrey and Johannesburg, have reaffirmed the importance of joint efforts of low-income, highly indebted developing countries and the concerted support by the international community, and the relevance of the HIPC initiative towards this end.

8. As of September 2003, the International Monetary Fund and the World Bank projected that the debt stocks in 27 countries that had reached the “decision point” by July 2003 would decline by approximately two thirds once they reach their respective “completion points”. This would mean that the debt stock of these countries would fall from an estimated US\$ 77 billion (in net present value) before traditional relief to US\$ 32 billion after the full delivery of HIPC, and even to US\$ 26 billion if additional bilateral relief committed by several creditors were delivered. If this anticipated debt relief is paid in full, the HIPC initiative will bring significant benefit to these low-income, highly indebted countries which are otherwise caught in the spiral of debt overhang. Already, IMF and the World Bank have reported that the expenditures related to poverty reduction in these countries have increased significantly and were almost four times as much as debt-service payments in 2002.¹

9. For a poor and heavily indebted country, having a net present value of debt equal to at least 150 per cent the value of its exports to qualify for debt relief under HIPC, it must satisfy two types of so-called “performance criteria”. The first criteria is a three-year track record of sustained policy and structural reforms and macroeconomic stability which the country needs to demonstrate before reaching the “decision point”, at which the World Bank and IMF Boards determine the country’s eligibility. The second stage is reaching a “completion point”, where all participating creditors provide the assistance determined at the decision point. To reach the completion point, the HIPC initiative requires three types of condition, the so-called “completion point triggers”, namely: (a) having a participatory PRSP linked to the HIPC process in place for at least one year; and (b) staying on track with the macroeconomic stabilization and reform programme structural reforms under IMF’s Poverty Reduction and Growth Facility (PRGF).

10. A recent review of the HIPC initiative conducted by the World Bank's Operations Evaluation Department (OED)² found the HIPC initiative highly instrumental in reducing the excessive debt burden of qualifying countries. The review, however, noted that the HIPC initiative was a limited instrument, and runs the risk of promising more than it can, in and of itself, deliver. The OED review thus recommended that the World Bank would do well, inter alia, to clarify the purposes and objectives of the initiative and focus more on growth that benefits the poor and a better balance among development priorities, as compared to the current focus on social expenditures. The World Bank is currently working on the review of these recommendations and their implementation, as appropriate.

11. It would be noted that, largely due to assertions of the World Bank and IMF, the public expectations of the perceived efficacy of the HIPC initiative have grown to such an extent that many have come to believe that the initiative will somehow provide a permanent exit from debt rescheduling, promote growth and release resources for social expenditures leading to poverty reduction. Many government officials and stakeholders from debtor countries acknowledge that qualifying for HIPC assistance has become their main motivation in preparing their PRSP. But while many have credited the HIPC initiative for bringing poverty reduction into sharper focus, there is a danger of the HIPC initiative being seen as an end in itself rather than a means to achieve the poverty reduction goals. For, in essence, the HIPC initiative is a limited instrument, which gives an opportunity for HIPC to have a fresh start in their overall development efforts. The HIPC initiative needs the combined reinforcement by other developmental actions and measures by the affected countries and the international community at large.

12. In this context, the OED review sheds important light on several perspectives that relate to the limited nature of the HIPC initiative and what concerted efforts are required by the debtor Governments and the international community in order to allow these countries to develop and alleviate the social costs of adjustment that may impact the realization of human rights of the people in these countries.

13. The independent expert agrees with the thrust of the OED review that the HIPC initiative is a useful but limited instrument, which has to be viewed within the context of the need for wider commitment both by debtor countries and the international community to a holistic approach to financing for development. For the highly indebted poor countries to achieve debt sustainability, long-term growth and poverty reduction goals, it is clear that the debt relief under the HIPC initiative will not be sufficient. Additional resource transfers in the forms of grants and concessional loans would be required to ensure the sustainability and permanent exit from debt overhang. In other words, the extent to which these goals are realized in fact depends much on whether the debt relief under the HIPC initiative is purely additional to current official development assistance, and that the donors will not cut back other aid flows in exchange for debt forgiveness. On the contrary, the evidence on the net resource transfers to the HIPCs so far has shown a declining trend.³

14. With the shrinking inflow of overall resources, it is apparent that the HIPCs, notwithstanding the opportunity created by the initiative and adoption of sound policies required to reach the decision and completion points, will have difficulties not only in increasing public expenditures in social sectors but also mitigating negative impact on the enjoyment of economic, social and cultural rights arising from continued structural adjustment programmes carried out in these countries as a condition to the HIPC relief.

15. Looking globally at the distribution of official development assistance (ODA) across countries brings another dimension to the issue of increased resources for the HIPC initiative. If the enhanced HIPC initiative were not financed by an overall increase in ODA at global level, then its main effect would be merely to redistribute aid among poor countries.⁴ When overall ODA resources remain at a constant level, more resources flowing to support the HIPC initiative would imply less resources becoming available to other non-HIPC countries. Indeed, the net official flows to developing countries have not increased, after reaching its peak in 1998.⁵ A positive development in this regard has been a new approach adopted by the Paris Club to debt restructuring for non-HIPC countries in October 2003. This so-called “Evian approach” provides a tailored response to the specific financial situation of each country rather than applying uniform standard terms to all borrowers irrespective of their debt sustainability prospects.

B. Contribution of the HIPC initiative to economic, social and cultural rights

16. Has the HIPC initiative, with its explicitly stated link to poverty reduction goals, contributed to the progressive realization of economic, social and cultural rights? In the 2002 progress report on the HIPC implementation,⁶ IMF and the World Bank reported that, for the 26 decision-point HIPCs, their social expenditure had been on the rise and projected to increase further. In 2002, social expenditure in these countries represented 49 per cent of government revenue. While these should augur well for the realization of economic, social and cultural rights, further studies need to be undertaken to determine the impact and quality of increased spending. In this regard, the independent expert would like to make several observations on the assessment of IMF and the World Bank on the progress of the HIPC implementation.

17. While the HIPC initiative expressly attempts to link debt relief and poverty reduction, the current benchmarks for measurement of its impact is not fully linked to all crucial poverty indicators. In measuring social expenditures, the World Bank relies mostly on expenditures in the education and health sectors, which are admittedly two key elements of any poverty reduction strategies but do not seem to adequately capture nor give the attention that is commensurate with the significance of the multidimensional aspects of poverty and the indivisibility of human rights. Countries seeking HIPC assistance also almost invariably focus much on education and health sectors as priorities, and tend to place less weight on other sectors such as governance and public services. It is thus revealing that the OED review found that, based on a review of 13 decision-point countries specifying numerical targets for the use of expected HIPC relief, 49 per cent of the resources were earmarked for education and health, while 4 per cent focused on governance.⁷ This limited interpretation of poverty may lead to an unintended imbalance in development efforts between sectors and between the need to empower individuals and institutions.

18. Increases in resource allocation and spending may be a necessary but not sufficient condition for the realization of human rights. Take the case of Uganda, where the Government decided to make the universal primary education a reality and took a radical step of eliminating all school fees. This brought about two significant consequences. First, there was a systemic change in the mindset of the poor families, who saw the education of their children not simply as

a privilege but something to which their children are entitled. Enrolment soared as parents saw other families in the village sending their children to school. Secondly, the Government's budget and spending on the education sector dramatically increased, albeit highly augmented by donor and World Bank support, to cope with the increase in enrolment. Government expenditure on primary education doubled as the enrolment also doubled from budget allocation for the education sector. However, it soon became apparent that the increase in budgetary allocation needed to be matched with increased capacity on the part of the Government at all levels to ensure its effective use. The inability of the Government to immediately increase the number of teachers, classrooms and textbooks in proportion to new enrolments had a deleterious impact on quality during the initial stage of the Universal Primary Education programme in Uganda.

19. A human rights-based approach to poverty reduction emphasizes the accountability of institutions that holds duties for the realization of rights that belong to individuals. The impact of debt relief initiatives is determined not only by the amount of resources made available by such institutions, but also by how they contributed to overall development outcomes and the realization of relevant human rights, in particular economic, social and cultural rights. Future reviews need to focus on the quality and impact of increased budgetary allocation from the HIPC relief, in order to ensure that the HIPC resources are put to the best use that contributes to improving the capacities and sustainability of institutions which are responsible for the realization of all human rights.

20. The independent expert would also note with disappointment the delay in bringing more countries to their completion point in the HIPC process. This delay is attributed mostly to the problem faced by some countries in staying on track with implementing macroeconomic and structural reform programmes under IMF. Some countries also reported that the participatory process in preparing their PRSPs has taken longer than originally envisaged. The recent report of the Secretary-General on the implementation of the Monterrey Consensus (A/58/216, paras. 128-129) notes that some of the disappointments in these domestic policies are reflections of weak international economy of the past few years and disappointing trade trends.

21. The Monterrey Consensus emphasizes the need for speedy, effective and full implementation of the HIPC initiative. While much has been achieved under the initiative, it is clear that more support is needed to fully fund the HIPC Trust Fund, and that more attention to sharpening the objectives and design of the initiative, as well as monitoring of the quality of its impact would be needed to assess the relevance and contribution of the HIPC initiative to the realization of economic, social and cultural rights. At the same time, it is also essential to acknowledge that debt relief per se will not release sufficient resources to attain the larger goals contained in the Millennium Declaration, including the Millennium Development Goals and human rights. More concerted attention should be paid, as reflected in the Declaration on the Right to Development adopted in 1986 and more recently in the Monterrey Consensus adopted in 2002, to the interplay of macroeconomic and structural reform, foreign debt, trade performance, and governance and institutional capacities that together impact the efforts on poverty reduction and the fulfilment of all human rights, including economic, social and cultural rights.

II. INTEGRATING HUMAN RIGHTS INTO BUDGET PROCESSES

22. The national budget is the foundation for public policy formulation and execution at country level. The national budget also reflects a country's economic position and is influenced not only by domestic savings and revenues but also by export earnings, the level of foreign debt and conditions attached to agreements with international financial institutions including structural adjustment and similar programmes. A country's ability to progressively realize economic, social and cultural rights hinges upon, in no small measure, its capacity to formulate an appropriate budget based on sound policy and participation, and to ensure its effective and efficient utilization.

23. It is therefore pertinent and necessary that considerations of human rights principles such as non-discrimination, equality and participation are integrated into all stages of the public budgeting cycles, which typically consist of formulation, legislative review, execution and auditing. In formulating the budget, the executive branch of the Government should ensure effective participation by stakeholders and constituencies in setting priorities, through wide, consultative processes. The preparation of a participatory PRSP is a right step towards this direction, although more explicit linkages could be made to human rights dimensions of poverty, including economic, social and cultural rights.

24. Equal attention needs to be made to the capacity of legislature to play its constitutional role effectively in budget oversight. It is encouraging to note that many legislatures in developing countries are starting to play a more active role in budgetary matters, and there is increasing support from the World Bank and bilateral donors in promoting the transparency of the budget process and the involvement of legislatures in budget review. As illustrated in the report of mission to Uganda (E/CN.4/2004/47/Add.1), the trend among donors towards more budget support rather than project-based aid should enable the legislature to play its oversight role to ensure that overall resources, both domestic and foreign, are distributed in accordance with the priorities of the citizens. The integration of external assistance into national budget framework should also result in more predictability of these resources and local ownership.

25. In today's increasingly globalized world, one cannot look at development, finance and trade issues separately or in isolation as these have become increasingly intertwined at all levels, affecting the ability of Governments to progressively realize economic, social and cultural rights for their citizens. International human rights standards, including on economic, social and cultural rights, need to be brought into the country's overall development efforts, that look at monetary, fiscal and trade policies in a holistic manner. The independent expert on the right to development pointed out in 2001 that the fulfilment of economic, social and cultural rights would imply augmenting the availability of resources and the proper allocation of existing resources, in a manner that the increased realization of any single right is achieved without detracting from the enjoyment of the other rights (E/CN.4/2001/WG.18/2, paras. 11-12). The impact of structural adjustment policies and foreign debt on the enjoyment of economic, social and cultural rights, therefore, must be viewed in this context and determined by how the availability of resources and the proper allocation of existing resources are affected by these policies, and how the current efforts to alleviate such impacts take into account, and contribute to, creating an environment for the realization of these rights.

26. The Monterrey Consensus, which emerged from the International Conference on Financing for Development held in 2002, explicitly recognized that each country has primary responsibility for its own economic and social development and that the role of national policies and development strategies cannot be overemphasized. It also emphasized that national development efforts need to be supported by an enabling international economic environment, and that peace and security are essential for sustainable development. This emerging consensus on global partnership for development has also called for a reform of the way multilateral and bilateral donors provide development assistance, towards greater support for country initiatives and ownership.

27. As highlighted in the previous section, the quality and impact of public expenditures is of crucial importance in determining the relevance of initiatives adopted to address the negative effects of structural adjustment policies and foreign debt on the enjoyment of all human rights, particularly economic, social and cultural rights. Yet, as evident from the findings of the OED review of the HIPC initiative, more efforts are needed to strengthen the capacities of national institutions in public expenditure management, monitoring and review. From the independent expert's perspective, the integration of human rights considerations into these processes can help to make them more open, participatory, transparent and effective. Examples of participatory community budgeting in Latin America or gender-sensitive budget work in many parts of the world attest to this potential. The general shift towards country ownership and global partnership, as marked by the Monterrey Consensus and the PRSP and HIPC initiatives, provides an ample but unexploited opportunity for the national budget processes to place human rights at its centre.

III. INTERLINKAGES WITH OTHER ISSUES

A. Trade

28. As a result of multilateral liberalization of trade, and also the application of structural adjustment programmes which have often accelerated reforms in developing countries, opening up their markets and financial and other services, the global trade volume as a percentage of gross domestic product (GDP) has consistently grown during the last decade, despite the recent economic slowdown. For many developing countries, however, persistent barriers for their exports to enter the developed-country markets significantly limit their prospects of improving balance of payment and macroeconomic stability, thereby constraining their development opportunities and the ability to progressively realize economic, social and cultural rights. The failure of the fifth Ministerial Conference of the World Trade Organization at Cancún to reach an agreement on current WTO negotiations is a major setback for the success of multilateralism, which could affect human rights as much as trade. Effective and meaningful integration of the interests and concerns of developing countries into the multilateral trading system will in the long term contribute towards the enjoyment of economic, social and cultural rights by the citizens of these countries.

29. The independent expert wishes to echo the widely held view embraced by the Monterrey Consensus that enhanced and predictable access to all markets for the exports of developing countries, as well as mitigating the volatility of commodity markets, are critical for the sustained

growth and debt sustainability of developing countries. Under IMF and World Bank structural adjustment programmes, most of the developing countries had unilaterally reduced their tariffs and non-tariff barriers prior to the emergence of the WTO Agreement on Agriculture, while developed countries kept high levels of domestic protection. This has not only significantly eroded the negotiating position of developing countries in the new rounds of multilateral negotiations, but allowed cheap imports of food items from developed countries that often dislodge domestic products and livelihoods, thereby negatively impacting on the enjoyment of economic, social and cultural rights.⁸

30. Although these issues are beyond the scope of the HIPC initiative or other debt relief initiatives, they nevertheless have profound implications for their implementation and for the progressive realization of economic, social and cultural rights. In this context, the independent expert will follow closely new developments and initiatives that seek to address the debt issues from a holistic perspective, notably the follow-up process to the International Conference on Financing for Development and the high-level meetings of the Economic and Social Council with the Bretton Woods institutions. He hopes to bring to the attention of these and other bodies the relevance of human rights, particularly economic, social and cultural rights, from the perspective of his mandate.

B. HIV/AIDS

31. Today, more than 45 million people are estimated to be infected with the human immune deficiency virus (HIV), 95 per cent of whom are in developing countries. In 2002, approximately 5 million people were newly infected with the virus. The heavily indebted poor countries, many of which are in sub-Saharan Africa, are especially hard hit with the crisis. In 2002, an estimated 3.5 million people in sub-Saharan Africa were infected with HIV.

32. There are several links between the global HIV/AIDS crisis and the ability of States to overcome the unsustainable debt burden and to manage the structural adjustment programmes while keeping pro-poor focus to minimize the negative impact on the enjoyment of economic, social and cultural rights. At the macroeconomic level, HIV/AIDS directly impacts the productivity of the country to maintain the growth necessary for sustainable debt management and structural adjustment. The World Bank estimated that per capita growth in half of the sub-Saharan countries is falling by 0.5 per cent to 1.2 per cent each year as a direct result of AIDS. HIV/AIDS is also directly affecting specific economic, social and cultural rights by overburdening the systems for the delivery of essential health services, as well as hindering educational development as a consequence of the loss of life among teachers which have lead to school closures. The stigma and discrimination associated with HIV/AIDS impact not only the human rights of those who are infected with the diseases but also of their non-infected family and community members.

33. In a lead up to the special session of the General Assembly on HIV/AIDS, held from 25 to 27 June 2001, the Secretary-General proposed the establishment of a global fund to fight against HIV/AIDS and other infectious diseases. In January 2002, the Global Fund to Fight AIDS, Tuberculosis and Malaria was established as an independent foundation which

would make grants on the basis of proposals, subject to rigorous technical review, with ongoing financing based on performance. As of July 2003, the Global Fund received pledges from 40 Governments and the private sector totalling US\$ 4.7 billion. It has approved funding to over 200 programmes totalling US\$ 2.1 billion, and more than US\$ 130 million was disbursed through September 2003.

34. The independent expert welcomes the establishment of the Global Fund as a major step forward in combating HIV/AIDS and other communicable diseases. It is hoped that, as highlighted in the previous section on the HIPC initiative, the Global Fund would result in additional resources made available to the affected countries, and not replacing other forms of assistance. In this context, the independent expert notes with caution that the traditional emphasis placed particularly by IMF on fiscal prudence may undermine the purpose of the Global Fund in some countries undergoing structural adjustment programmes. For example, in Uganda it was reported that, because of the fixed expenditure ceilings imposed to limit public spending as a part of structural adjustment programmes, the Government was reportedly reluctant to accept the grant from the Global Fund unless a similar reduction was made in the health sector budget. The independent expert notes that consultations are ongoing between IMF and the World Bank in the context of aligning the PRGF and the PRSP approach.⁹ He further recommends that IMF and the World Bank further coordinate efforts and approaches so as to ensure that additional resources made possible by new initiatives aimed at poverty reduction and the realization of commitments contained in the Millennium Declaration are put to best use for the enjoyment of economic, social and cultural rights and overall realization of human rights in concerned countries. Keeping in mind the indivisibility of human rights, broader considerations of the overall development priorities rather than a narrow fiscal approach, and emphasis on capacity-building including in the area of public expenditure management would be critical in this regard.

IV. CONCLUSION AND RECOMMENDATIONS

35. **Based on the reviews and analyses in the foregoing sections regarding the experience, implementation and progress of the HIPC initiative, relevance of the national budgeting process for the enjoyment of economic, social and cultural rights, and the need to adopt a holistic view of problems faced by developing countries in terms of foreign debt and structural adjustment, the independent expert submits the following recommendations:**

(a) **States should intensify their respective commitments and increase support for the HIPC initiative to ensure its full implementation and ensure that these resources are additional to overall development assistance;**

(b) **Appropriate consideration should be made, taking into account national context and priorities, to allocate the HIPC resources in a way that ensures a balanced development conducive to the overall realization of human rights;**

(c) Consideration should be given to the role that national human rights institutions can play in monitoring the public expenditure performance and the implementation of the HIPC, PRSP and other relevant initiatives, to ensure that these contribute to the enjoyment of human rights, particularly economic, social and cultural rights;

(d) States should strengthen the capacities of legislative bodies that are charged with budget oversight and monitoring and their awareness of human rights, particularly economic, social and cultural rights;

(e) IMF and the World Bank should further cooperate closely to ensure that additional resources made available through the HIPC initiative, the Global Fund to Fight AIDS, Tuberculosis and Malaria and other new initiatives are absorbed in the recipient countries without affecting other ongoing programmes.

36. The Commission may wish to encourage the independent expert to:

(a) Further explore the interlinkages with trade and other issues, including HIV/AIDS, when examining the impact of structural adjustment policies and foreign debt on the enjoyment of human rights, particularly economic, social and cultural rights;

(b) Contribute, as appropriate, to the follow-up process of the International Conference on Financing for Development, with a view to bringing to its attention the issue of the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights;

(c) Cooperate, in accordance with his mandate, with other rapporteurs, representatives, experts, members of working groups of the Commission and the Sub-Commission, and the human rights treaty bodies, in further reviewing the effects of the burden of foreign debt and the policies adopted to face them on the capacity of the Governments of developing countries to adopt policies and programmes for the enjoyment of economic, social and cultural rights, including the role national budgeting processes can play for the progressive realization of such rights.

Notes

¹ International Monetary Fund and International Development Association, "Heavily Indebted Poor Countries (HIPC) Initiative - Status of implementation", 12 September 2003, pp. 8-9 (see www.imf.org).

² Operations Evaluation Department (OED), World Bank, "Debt relief for the poorest: an OED review of the HIPC initiative", 31 May 2003.

³ OED, op. cit., p. 48.

⁴ A/55/1000, p. 21.

⁵ See A/58/369, table 2, p. 5.

⁶ International Monetary Fund and International Development Association, "Heavily Indebted Poor Countries (HIPC) Initiative - Status of implementation", 23 September 2002, appendix, table 4, p. 99 (see www.imf.org).

⁷ OED, op. cit., p. 34.

⁸ United Nations Development Programme, *Making Global Trade Work for People*, 2003, pp. 116-117.

⁹ IMF, "Aligning the Poverty Reduction and Growth Facility (PRGF) and the Poverty Reduction Strategy Paper (PRSP) Approach: Issues and Options", 25 April 2003, p. 12.
