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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Independent Expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona

Summary

In the present report, the Independent Expert sets out the parameters of a human rights-based approach to recovery from the global economic and financial crises, with a particular focus on the most vulnerable and marginalized groups. She urges States to see recovery from the crises as an opportunity for change, a chance to rectify deeply ingrained poverty and social exclusion, restore social cohesion and lay the foundations for more equitable, sustainable societies.

The Independent Expert first identifies the human rights framework that States must comply with when designing recovery measures. She notes that, while States have discretion to adopt policy measures according to their own context, human rights are not dispensable during times of economic hardship, and States must design and implement all policies according to their human rights obligations.

The Independent Expert analyses a number of recovery measures from a human rights perspective, highlighting their potential to threaten the enjoyment of economic, social and cultural rights. She then recommends measures that States should consider taking to facilitate a human rights-based recovery from the crises. These innovative measures will assist States in moving as effectively and efficiently as possible towards the full realization of economic, social and cultural rights. By adopting policies that have at their heart the realization of human rights, States can ensure a swifter, more sustainable and inclusive recovery.

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I. Activities undertaken by the mandate holder

1. The current report is submitted by the Independent Expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, in accordance with Human Rights Council resolution 8/11. The report reflects the Expert's work in analysing the impact of recovery measures on the human rights of those living in extreme poverty.

2. Since her previous annual report (A/HRC/14/31), the Independent Expert has submitted a report to the General Assembly (A/65/259), in which she highlighted the importance of social protection measures in facilitating the achievement of the Millennium Development Goals. The report made recommendations on the core elements of a rights-based social protection system, including the meaningful integration of gender-related concerns. To prepare the report, the Expert convened a meeting, in collaboration with the Center for Women's Global Leadership, which brought together experts from all regions. She also distributed a questionnaire to gather and analyse States' experiences and good practices.

3. At the fifteenth session of the Human Rights Council, the Independent expert presented the report on her joint mission to Bangladesh with the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation (A/HRC/15/55). Additionally, in accordance with Council resolution 12/19, the Independent Expert submitted a progress report (A/HRC/15/41) with detailed recommendations on how to improve the draft guiding principles on extreme poverty and human rights. In order to prepare the report, the Expert convened a meeting in May 2010, in collaboration with Friedrich-Ebert-Stiftung, which was attended by experts working on human rights and development issues worldwide. She also consulted with various stakeholders and participated in two meetings with non-governmental organizations promoted by ATD-Quart Monde, and a meeting with human rights and development practitioners at Brandeis University.

4. During the current reporting cycle, the Independent Expert also visited Viet Nam (August 2010) and Ireland (January 2011). The Expert takes this opportunity to thank both Governments for the active support they provided to the missions.

5. In June 2010, the Independent Expert participated in the Latin American Regional Consultation on the draft general guidelines on foreign debt and human rights. In December 2010, she took part in the third Forum on Minority Issues. Additionally, during the reporting period, the expert participated in numerous events and held working meetings with Governments, United Nations agencies, the World Bank, donor agencies, academic institutions, non-governmental organizations and representatives of people living in poverty.

II. Introduction

6. Since the onset of the global economic and financial crises, the Independent Expert has been committed to raising awareness about and conducting an analysis of the impact of the crises on the enjoyment of human rights by the most marginalized and excluded members of society who, despite being removed from the causes of the crises, have suffered disproportionately from them. In this regard, the Expert participated in the tenth special session of the Human Rights Council on the theme "The impact of the global economic and financial crises on the universal realisation and effective enjoyment of human rights". She also submitted a written contribution to the United Nations Conference on the World Financial and Economic Crisis and Its Impact on Development in June 2009.

In the report that the Expert submitted to the General Assembly in October 2009 (A/64/279), she addressed the impact of the crises on people living in extreme poverty and their enjoyment of human rights.

7. The present report continues the Independent Expert's previous work by focusing on the human rights challenges and opportunities inherent in building a sustainable recovery from the crises. She seeks to approach the prospect of recovery as a unique opportunity for transformation and enhanced protection of human rights. States are encouraged to take stock of the effect of successive crises and to formulate a vision for recovery based on the realization of universally accepted human rights standards. In the report, she asks whether the recovery measures currently pursued by States are adequate to protect the most vulnerable and ensure the enjoyment of economic, social and cultural rights by all individuals. Lastly, she highlights the need for human rights-based approaches to recovery in order to rectify the deterioration in the enjoyment of human rights caused by the crises and to lay the foundations for a more equitable and inclusive society.

8. In order to prepare the report, the Independent Expert addressed a questionnaire to Governments requesting information on their policy responses to the global economic and financial crises and their proposed recovery measures. As at 28 February 2011, 24 Governments had responded.¹

9. The Independent Expert also benefited from a review of many studies on the impact of the crises and recovery measures, and from an expert meeting convened by the Expert and organized by the Office of the United Nations High Commissioner for Human Rights, with the support of the United Nations Children's Fund (UNICEF) and the Ministry of Foreign Affairs of Norway, on 27 and 28 January 2011. A total of 18 experts from Governments, non-governmental organizations, United Nations agencies and academic institutions attended the meeting and contributed to the Expert's examination of the issues.

10. The Independent Expert wishes to express her gratitude to all States that submitted information and to the experts, non-governmental organizations and United Nations agencies that supported this process and assisted in the preparation of the present report. The Expert is particularly grateful for the support and guidance of UNICEF, which has also been working extensively on issues relating to recovery from the global economic and financial crises.

III. Human rights framework

11. International human rights law stipulates concrete obligations to ensure the realization of economic, social and cultural rights. These obligations are enshrined in the Universal Declaration of Human Rights and in a number of human rights treaties at the regional and universal levels. The most direct obligations are those set forth in the International Covenant on Economic, Social and Cultural Rights, with which 160 States must comply.² Several other treaties also establish compulsory obligations regarding economic, social and cultural rights, such as the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the

¹ Questionnaire responses were received from Algeria, Argentina, Bosnia and Herzegovina, Cuba, Estonia, Germany, Greece, Guatemala, Indonesia, Jordan, Lithuania, Montenegro, Morocco, Myanmar, Nicaragua, Norway, Portugal, the Republic of Moldova, Spain, the Syrian Arab Republic, Thailand, Turkey, Ukraine and the United Kingdom of Great Britain and Northern Ireland. All responses are available from <http://www2.ohchr.org/english/issues/poverty/expert/index.htm>.

² As at 28 February 2011.

International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of Persons with Disabilities, among others. These international treaties, in conjunction with a great number of universally agreed declarations and soft law instruments, determine the legal framework that States must comply with at the domestic level, even in time of crisis. The Expert's evaluation in the present report is based primarily, but not exclusively, on the obligations enshrined in the International Covenant on Economic, Social and Cultural Rights.

12. Even when resources are limited, States are legally bound to respect, protect and fulfil international human rights obligations. For State parties to the International Covenant on Economic, Social and Cultural Rights, this means, for example, that they must dedicate the maximum amount of resources available to progressively achieve the full realization of all economic, social and cultural rights. The human rights perspective distinguishes between the inability and the simple unwillingness to act.³ States cannot use the economic damage caused by the crises to justify actions or omissions that amount to violations of basic human rights obligations. While economic, social and cultural rights are often subject to the principle of "progressive realization" depending on the availability of resources in each State, this principle also prescribes particular modes of conduct that are compulsory for all States, regardless of their level of development. These obligations considerably limit the discretion of States with regard to the implementation of economic, social and cultural rights, and require immediate action.

A. Using the maximum resources available

13. States must devote the maximum available resources to ensure the progressive realization of all economic, social and cultural rights as expeditiously and effectively as possible. In its general comment No. 3, the Committee on Economic, Social and Cultural Rights stated that this is so even during times of severe resources constraints, whether caused by a process of adjustment, economic recession, or by other factors. This obligation imposes limitations on a State's freedom to allocate available resources. The resources "available" are not only the resources within a State, but also those available from the international community through "international assistance and cooperation". States that do not possess the necessary resources are obliged to "actively seek assistance" to ensure, at the very least, minimum essential levels of enjoyment of human rights.⁴

14. While several external factors affect the availability of domestic resources, such as the provision of official development assistance (ODA) and the role of international trade, compliance with this principle also depends on how the State generates and mobilizes resources to fund compliance with human rights obligations. For example, if a State generates too little revenue or allocates a high proportion of its budget to defence, its ability to provide sufficient levels of public services will be compromised.

B. Ensuring minimum essential levels of economic, social and cultural rights

15. State parties to the International Covenant on Economic, Social and Cultural Rights have an immediate minimum core obligation to ensure the satisfaction of, at the very least,

³ Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, para. 13.

⁴ Committee on Economic, Social and Cultural Rights, general comments No. 4, para. 10, No. 5, para. 13 and No. 11, para. 11.

minimum essential levels of all economic, social and cultural rights.⁵ These minimum essential levels are those which are crucial to securing an adequate standard of living through basic subsistence, essential primary health care, basic shelter and housing, and basic forms of education for all members of society.

16. The obligation to achieve these minimum essential obligations is not dispensed with during times of crisis and recovery. Even during times of severe resource constraints, when available resources are demonstrably inadequate, the obligation remains for States to demonstrate that every effort has been made to use all resources that are at its disposal, in an effort to satisfy, as matter of priority, minimum essential levels and to protect the most disadvantaged and marginalized members or groups of society by adopting relatively low-cost targeted programmes.⁶

17. In the context of recovery from successive crises, this principle obliges States to ensure that any programmes or policies that are integral to delivering essential services (for example, primary education, basic health care and social assistance programmes) are protected, to the greatest extent possible, from reduced expenditure. The duty of the State to prioritize the rights of the poorest and most vulnerable people does not imply that the State may adopt a very narrow approach. States continue to have responsibilities to move as expeditiously and effectively as possible towards the widest possible enjoyment of rights by all, which means maintaining services beyond a basic level.⁷

C. Avoiding deliberately retrogressive measures

18. There is a strong presumption that deliberately retrogressive measures that affect the level of enjoyment of economic, social and cultural rights are in violation of human rights standards.⁸ Examples of retrogressive measures might include the adoption of policy or legislation with a direct or collateral negative effect on the enjoyment of rights by individuals, or unjustified reductions in expenditures devoted to implementing public services that are critical for the realization of economic, social and cultural rights, such as those which guarantee basic health care, ensure access to primary education, or make available assistance for food and shelter.

19. The Committee on Economic, Social and Cultural Rights noted that, in adopting retrogressive measures, States must demonstrate that they have been introduced after the most careful consideration of all alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant, in the context of the full use of the maximum available resources.⁹

20. If a State uses “resource constraints” as an explanation for any retrogressive measure, the Committee on Economic, Social and Cultural Rights will assess the situation considering, inter alia, the country’s level of development, the severity of the breach, whether the situation concerned the enjoyment of the minimum core content and whether the State had identified low-cost options, or had sought international assistance.¹⁰

⁵ Ibid., general comment No. 3, para. 10.

⁶ E/C.12/2007/1, paras. 4 and 6. See also Committee on Economic, Social and Cultural Rights, general comments No. 3, para. 12, No. 12, para. 28 and No. 14, para. 18.

⁷ Committee on Economic, Social and Cultural Rights, general comment No. 3, para. 11.

⁸ See for example *ibid.*, general comments No. 3, para. 9 and No. 4, para. 11.

⁹ See *ibid.*, general comments No. 3, para. 9, No. 13, para. 45, No. 14, para. 32, No. 15, para. 19, No. 17, para. 27, No. 18, para. 34, No. 19, para. 42 and No. 21, para. 65.

¹⁰ E/C.12/2007/1, para. 10.

D. Ensuring non-discrimination and equality

21. The requirement that a State must ensure enjoyment of human rights equally and without discrimination of any kind is a fundamental pillar of the human rights framework.¹¹ The scarcity of resources in times of economic hardship is not an acceptable justification for discriminatory measures or failing to implement anti-discrimination policies.

22. Expenditure and entitlements must benefit all social groups equally, and exclusions from public funds based on, for example, citizenship or employment status, may violate the requirement for non-discrimination. These principles also require States to identify vulnerable and disadvantaged groups in society and to protect them as a matter of priority. States have an obligation to take special and positive measures to diminish or eliminate conditions that cause or help to perpetrate discrimination.¹²

23. Given the clearly disproportionate and devastating effect of the global economic and financial crises on vulnerable and disadvantaged groups, including children, persons with disabilities, older persons, indigenous peoples, ethnic minorities and migrants, States must be particularly careful to ensure that recovery measures do not exclude them or exacerbate their situation. Considering that gender inequality is a cause of and a factor that perpetuates poverty, effective recovery policies must take into account State obligations regarding gender equality and the protection of women's full range of rights.

24. When limited resources require the adoption of targeted measures to reach the poorest and most disadvantaged members and groups in society, caution is required from a human rights perspective. In principle, human rights standards are not compromised by the use of targeted schemes as a form of prioritization of the most vulnerable and disadvantaged groups. However, States must ensure that targeting mechanisms comply with human rights standards and are utilized only within a longer-term strategy of progressively ensuring universal protection.

E. Allowing for participation, transparency and accountability

25. At the core of the human rights framework is an overarching requirement that all States take into consideration the principles of participation, transparency and accountability in the design, implementation and evaluation of State policies.¹³ Human rights are important not only in the outcome of State policies but also in the process by which they are formulated and implemented. These principles are integral both to ensuring effectiveness in the adopted policy and responding to the obligations of States with regard to the rights to take part in public life, to seek and receive information and to have access to effective remedies in cases of violation.

26. In formulating policies in response to the crises, such as reductions in public expenditure, increases in taxation or entering into conditional loans with donors or financial institutions, States must allow for the broadest possible national dialogue, with effective

¹¹ See for example International Covenant on Economic, Social and Cultural Rights, arts. 2(2) and 3; International Covenant on Civil and Political Rights, arts. 2(1), 3 and 26; International Convention on the Elimination of All Forms of Racial Discrimination, art. 2(1); Convention on the Elimination of All Forms of Discrimination against Women, art. 2; and Convention on the Rights of the Child, art. 2(1).

¹² See for example Convention on the Elimination of All Forms of Discrimination against Women, art. 4(1) and International Convention on the Elimination of All Forms of Racial Discrimination, art. 2(2).

¹³ For further information on how to operationalize these principles, see the previous reports of the mandate holder.

and meaningful participation of civil society, including those who will be directly affected by such policies.

27. To allow the public to participate democratically in discussions and decision-making, information about proposed policy measures must be disseminated widely and in a way that is easily understood. Participatory mechanisms should be established and the capacity of rights-holders to know their rights must be strengthened.

28. Governments should encourage independent organizations and academic institutions to develop alternative policy options and to carry out assessments of the social impact of all options and proposed measures. Recovery measures should also be open to oversight, including judicial scrutiny, and public officials involved in economic policy should be accountable for any policy decisions that endanger the enjoyment of human rights.

IV. Addressing the needs of the most vulnerable to ensure an inclusive, rights-based recovery

29. Since the global economic and financial crises in the financial markets arose in 2007, they have had a devastating impact on poverty rates and presented a serious threat to the lives and livelihoods of hundreds of millions of people across the globe. Their disastrous impact has been amplified by a number of pre-existing social and economic realities: the world had been plagued in preceding years by consecutive fuel and food crises, unemployment was already unacceptably high, a majority of workers were employed in the informal sector, and only 20 per cent of the world's working-age population and their families had effective access to social protection.¹⁴

30. The onset of the global economic and financial crises therefore exacerbated deprivations and resulted in inequality and poverty becoming not only more widespread, but more deeply entrenched. According to World Bank estimates, as a result of the crises, an additional 50 million people fell into income poverty (less than \$1.25 a day) during 2009 and an estimated 64 million more were living in income poverty by the end of 2010. Around 71 million additional people will remain in extreme poverty until 2020 than otherwise would have.¹⁵

31. The advanced interconnectedness of the world's economies and markets means that the ramifications of the crises have been far more extensive than any previous comparable economic downturn. Throughout both developing and developed countries, 205 million people are unemployed¹⁶ the highest number of unemployed in history. As a result of the crises, at least 55,000 more children are likely to die each year from 2009 to 2015.¹⁷ The prevalence of children dropping out of school has increased, as boys have been propelled into the workforce and girls given an increased burden of household tasks.¹⁸ By 2009, at

¹⁴ International Labour Organization (ILO), *World Social Security Report 2010-2011*, p. 33.

¹⁵ World Bank, *The World Bank Group's Response to the Global Economic Crisis*, 2010, p. 11.

¹⁶ ILO, *Global Employment Trends 2011: The challenge of a jobs recovery*, 2011, p. 12.

¹⁷ Jessica Espey and Maricar Garde, *The global economic crisis: Balancing the books on the backs of the world's most vulnerable children?*, Save the Children, 2010, p.8.

¹⁸ See for example Ronald Mendoza, "Inclusive Crises, Exclusive Recoveries, and Policies to Prevent a Double Whammy for the Poor", *Social and Economic Policy Working Paper*, UNICEF Policy and Practice, 2010, p. 18.

least 100 million more people were hungry and undernourished because of the crises,¹⁹ a situation that continues to deteriorate owing to escalating food prices.

32. These are alarming numbers. What these figures do not show, however, is that those who are enduring the gravest effects of the crises are the most vulnerable and disadvantaged in society, including women, children, older persons, persons with disabilities, indigenous peoples, ethnic minorities and migrants. Because of ingrained discrimination and structural disadvantage, vulnerable groups have restricted access to services and social protection, which help to cushion the effects of crises, and they are thus exposed to increased risk during times of economic shock.

33. The above-mentioned groups have suffered and continue to suffer the cumulative effects of previous crises and are in an increasingly weak and vulnerable situation. They have exhausted their coping mechanisms, such as eating fewer meals, cutting health expenditures, taking their children out of school and increasing working hours in the informal sector, and are left with very limited capacity for resilience. Their situation is further compounded by the current spike in food prices, which is forcing those living in poverty to buy even less expensive and less nutritious food.

34. To overcome the impact of economic deprivation and social exclusion, members of such groups require specific initiatives aimed at addressing their vulnerabilities and risks. Those living in poverty are the least equipped to benefit from the measures taken by States to respond to the crises. States must take measures that explicitly address those living in poverty, otherwise recovery measures will not reach them and inequality will become further entrenched. States should not presume that the recovery will simply “trickle down” to the most vulnerable. To ensure an inclusive rights-based recovery, States and the international community must address the specific needs of the poorest and most disadvantaged as a matter of great urgency. Failure to do this will imply lasting harm to those living in poverty.

35. The ways in which States have sought to respond to the global economic and financial crises have differed markedly across the globe, although some trends in crisis responses were clear. When the crisis first emerged, a large number of States introduced counter-cyclical measures (such as fiscal stimulus packages and social protection interventions) as a means of responding effectively and mitigating some of the most severe effects on the enjoyment of human rights by those living in poverty. While counter-cyclical measures proved to be crucial to protect the poorest, however, the fear is now that a number of States are discontinuing their counter-cyclical policies, retreating from fiscal stimulus plans and adopting fiscal austerity measures that reduce public expenditure, including social protection interventions.²⁰

36. Reductions in public expenditure are likely to take the form of decreased spending on social services,²¹ which has the potential to significantly undermine the effective and efficient functioning of basic health and education services and social protection systems. These services are crucial for providing minimum essential levels of enjoyment of human rights and to protect the rights of the poorest and most vulnerable members of society. While the human rights framework does not exclude the possibility of States adopting

¹⁹ Food and Agricultural Organization of the United Nations (FAO), *The State of Food Insecurity in the World: Economic Crises, Impacts and Lessons Learned*, 2009, p. 4.

²⁰ Isabel Ortiz, Jingqing Chai, Matthew Cummins and Gabriel Vergara, “Prioritising Expenditures for A Recovery For All: A Rapid Review of Public Expenditures in 126 Developing Countries”, *Social and Economic Policy Working Paper*, UNICEF, 2010.

²¹ *Ibid.*, p. 21. See also the questionnaire responses of Bosnia and Herzegovina, Estonia, Germany, Lithuania, Portugal, Ukraine and the United Kingdom.

austerity measures, it is clear that, in many instances, these reductions in expenditure could have grave consequences for the enjoyment of human rights, particularly for those living in poverty who continue to suffer from the cumulative effects of the crises.

37. Human rights do not dictate what policy measures States should take. States have the discretion to select and take policy measures according to their specific economic, social and political circumstances. The choice of policy measures must, however, comply with the State's human rights obligations. Human rights are not a policy option, dispensable during times of economic hardship. While a human rights response does not purport to stipulate a particular economic system or financial measures, it nevertheless provides a clear legal framework for the design and implementation of all policies, including economic and fiscal policy.

V. Some recovery measures and their potential threat to the realization of human rights

38. The occurrence of economic crises does not exempt States from complying with their human rights commitments, nor does it entitle them to prioritize other issues over the realization of human rights. Rather, it is during crises and their aftermath that the necessity of State conformity with human rights obligations comes into sharp relief. It is precisely when increasing numbers of people are being pushed into extreme poverty and the livelihood of vulnerable groups is being threatened that the protection provided by human rights is most vital. In this regard, it is imperative that social spending and service delivery is adequate to support vulnerable populations and help them overcome the devastating impact of the crises on their enjoyment of economic, social and cultural rights.

39. The section below looks through a human rights lens at some of the specific measures that States are designing and implementing, and highlights the ways in which they may pose a threat to the enjoyment of economic, social and cultural rights of the most vulnerable sectors of societies.

A. Eroding social protection systems

40. In order to avert the worst effects of the crises, and drawing from the experience of previous crises in which social protection systems played an important role, many low- and mid-income countries have allocated significant percentages of their stimulus packages to social protection initiatives.²²

41. In those countries in which social protection schemes were already in place, protected by legislative or constitutional measures and constructed in accordance with a human rights framework, individuals and households most at risk of economic hardship were able to rely on social protection mechanisms to mitigate the social and economic effects of the crises and thus enjoyed stronger protection of their rights. This was the case in a number of Latin American countries that have well-developed and supported social protection systems. Where no adequate pre-existing social protection mechanisms were in place, States' investments in social protection were less able to respond to the effects of the economic downturn, although they still provided an important form of support to those most affected by the crises.

²² Ortiz and others, "Prioritising Expenditures", p. 4.

42. Social protection systems play an exceptionally important role in protecting the enjoyment of several economic, social and cultural rights of the poorest and most vulnerable during times of economic shock and other forms of crisis. Therefore, it is of concern that some States are now proposing reductions in funding to social protection systems as part of their recovery plans.²³ These proposed reductions go against the repeated political commitments made by States to provide and promote comprehensive social protection systems as key measures for recovery.²⁴

43. As part of the efforts to tighten spending, some countries are further curtailing already limited social protection schemes by reducing the level of benefits or by further targeting (reducing coverage).²⁵ This is despite the reality that those living in poverty continue to suffer from the cumulative effects of the crises and should be protected as a matter of priority.

44. Cuts to social protection systems may violate the prohibition of retrogressive measures and seriously compromise the ability of States to ensure minimum essential levels of human rights for all, particularly the most vulnerable. By further targeting social protection mechanisms, States run a much higher risk of excluding those most in need of support, which would violate human rights principles regarding non-discrimination and equality and undermine the obligation to prioritize the most vulnerable. If targeting is adopted, Governments must comply with human rights principles that require, *inter alia*, minimizing exclusion errors and ensuring that targeting mechanisms are objective, transparent, open to scrutiny and do not stigmatize the beneficiaries. Targeted mechanisms should also be adopted within a long-term strategy of universal protection.

B. Reducing wage bills

45. A significant percentage of post-crises austerity budgets have included proposals to limit the public wage bill by reducing the public sector workforce and cutting or freezing wages of public sector employees.²⁶ Often these cuts are not progressively implemented, and therefore have a disproportionate impact on the lowest wage brackets. UNICEF has expressed concern that wage cuts or caps might translate into the reduction or erosion of the real value of salaries, as costs of living continue to rise, and may take the form of hiring freezes or employment retrenchment.²⁷ The serious implications of such developments would be exacerbated by the fact that declines in real wages were already widespread owing to the effect of the global economic and financial crises on the labour market.²⁸

46. Reductions in the public wage bill will severely impede the delivery of social services. If remuneration to the providers of basic education and health care is reduced, this could have a potentially drastic impact on individuals' ability to easily and effectively have

²³ Katerina Kyrili and Matthew Martin, "The Impact of the Global Economic Crisis on the Budgets of Low-Income Countries", Oxfam International and DFID, 2010, p.18.

²⁴ See for example General Assembly resolution 65/1, paras. 23(f), 51 and 70(g); the G20 Seoul Summit Leaders' Declaration, November 2010, para. 5; and the G20 Seoul Summit document, para. 51(f).

²⁵ Ortiz and others, "Prioritising Expenditures", p.15. For examples of States reducing benefits, see the questionnaire responses of Bosnia and Herzegovina, Estonia, Lithuania and Portugal. For examples of States further targeting social protection, see the questionnaire responses of Lithuania and the Republic of Moldova.

²⁶ See Ortiz and others, "Prioritising Expenditures", p. 20. See also the questionnaire responses of Bosnia and Herzegovina, Jordan, Lithuania, Portugal and the United Kingdom.

²⁷ Ortiz and others, "Prioritising Expenditures", p. 20.

²⁸ United Nations Research Institute for Social Development, "Social and Political Dimensions of the Global Crisis: Implications for Developing Countries", 2009, p. 1.

access such services. Limited or decreased staff numbers may hamper the ability of social services to respond to public demand, and the removal of allowances or incentive schemes might have an adverse impact on the efficiency of employees.

47. The above measures will have a disproportionate impact on people living in poverty, particularly those in rural areas and the most disadvantaged, who already face numerous barriers in gaining access to health care and education services. By adopting policies that threaten to reduce the wages of those essential to the provision of such services, States would also jeopardize their ability to provide for the widest possible enjoyment of economic, social and cultural rights. These measures run a real risk of constituting unjustified retrogressive measures if they impede the State's ability to maintain minimum essential levels of enjoyment of economic, social and cultural rights.

48. Of utmost concern is the trend towards the cutting of salaries of primary school teachers and nurses, the result of which is that, in some States, the salaries received by teachers and nurses are barely sufficient to allow them an adequate standard of living.²⁹ The erosion of teachers' wages commonly leads to teacher absenteeism and an increase in informal fees.³⁰ This has an adverse impact on the right of children to education and increases the likelihood of poor child outcomes, particularly in rural areas.³¹

C. Implementing regressive taxation measures

49. States have an unambiguous responsibility to take steps towards the full achievement of economic, social and cultural rights by using the maximum amount of resources available. In the aftermath of the global economic and financial crises, it has become clear that, in many States, efforts to increase resources for recovery through the whole spectrum of available options have been insufficient, thus impeding States' compliance with human rights. Low levels of domestic taxation revenue, in particular, could be a major obstacle to a State's ability to meet obligations to realize economic, social and cultural rights.³²

50. While raising tax revenue can be an essential part of an effective policy response to the effects of the crises, States should, however, be cognizant of their obligations to implement policies in accordance with the principles of non-discrimination and equality. In this context, the introduction of or an increase in regressive sales taxes or value added taxes may have a disproportionate impact on those who are already experiencing financial difficulties.³³ Regressive taxes may represent an unequal added burden for those living in poverty or experiencing economic hardship, as they constitute a larger percentage of income. The real income of women living in poverty is particularly affected by the introduction of regressive taxes, especially when the introduction of taxes is carried out in conjunction with reductions to expenditure on public services.³⁴ States must be vigilant in balancing the need to increase taxation revenue with their responsibilities to protect the most vulnerable and prevent further inequality.

²⁹ See UNICEF, "Protecting Salaries of Frontline Teachers and Health Workers", UNICEF Policy and Practice, Social and Economic Policy Working Briefs, 2010.

³⁰ Ortiz and others, "Prioritising Expenditures", p. 21.

³¹ UNICEF, "Protecting Salaries", p. 1.

³² A/HRC/13/33/Add.4, para. 87(e).

³³ See, for example, the questionnaire responses of Estonia and Portugal.

³⁴ Zo Randriamaro, "The Impact of the Systemic Crisis on Women in Eastern Africa", AWID Brief 10, 2010, p. 7.

51. Taxation reform that comes in the form of cuts, exemptions and waivers may also disproportionately benefit the wealthier segments of society, discriminating against people living in poverty. States that institute tax cuts will decrease the resources available to realize their economic, social and cultural rights commitments and increase the risk that they will be unable to meet their obligation to utilize the maximum available resources for their fulfilment.

D. Limiting food subsidies

52. A considerable proportion of States has indicated that they plan to limit or eliminate food subsidies as part of their response to the crises.³⁵ From a human rights perspective, the decision to limit food subsidies at a time when food prices are escalating drastically³⁶ and there is still a pressing need for public food and nutrition support is extremely worrying.

53. In recent years, food subsidies have become a common means of ameliorating the devastating effects of food scarcity and rising commodity prices on those living in poverty. The reduction of taxation on or subsidization of staple foods is aimed at providing immediate relief to those experiencing the most pressing forms of food insecurity. By providing access to a basic form of food security, food subsidies can limit the prevalence of hunger, increase consumption and improve nutrition in recipient households. Food subsidies also contribute to ensuring price stabilization and thus create greater food access for all.³⁷ To this extent, they are one way in which States can ensure that they meet their obligations regarding the right to an adequate standard of living, including the right to food.³⁸

54. The recurrent crises have taken an extremely harsh toll on the access of those living in poverty to food and nutrition, and limited food subsidies may be a blow that many are unable to bear. Policies that limit or eliminate food subsidies would seriously threaten the ability of States to ensure minimum levels of enjoyment of economic, social and cultural rights, particularly for the most vulnerable. These policies may also undermine other efforts to address the effects of the crises through, for example, investments in social protection systems. Higher food costs can have an adverse impact on social protection systems as a result of real losses in the value of cash transfers or income received through social protection.³⁹

55. While commodity prices continue to escalate and another food crisis is imminent, from a human rights perspective it is imperative that food subsidy schemes remain intact or be replaced with alternative policies that ensure food security for those living in poverty. Universal access to food subsidy programmes is the most effective means of reaching the poorest sections of society, but where resources are scarce, targeting may be necessary. If States decide to implement targeted schemes, they should do so within a long-term strategy of progressively ensuring universal protection and in compliance with a human rights framework.

³⁵ Ortiz and others, "Prioritising Expenditures", p. 21.

³⁶ Isabel Ortiz, Jingqing Chai, Matthew Cummins, "Escalating food prices: the threat to poor households and policies to safeguard A Recovery For All", UNICEF Policy and Practice, 2011.

³⁷ Shikha Jha and Bharat Ramaswami, "How can food subsidies work better? Answers from India and the Philippines", Asian Development Bank Economics Working Paper Series, No. 221, 2010, p.4.

³⁸ Such as those under article 25 of the Universal Declaration of Human Rights; article 11 of the International Covenant on Economic, Social and Cultural Rights; article 12 of the Convention on the Elimination of All Forms of Discrimination against Women; and articles 24 and 27 of the Convention on the Rights of the Child.

³⁹ Ortiz and others, "Escalating food prices", p. 13.

VI. Crisis as an opportunity to enhance the enjoyment of human rights: a time for transformative policies

56. The challenge of recovering from successive crises presents a unique opportunity for States to formulate a transformative vision for the future aimed at the full realization of human rights. In putting human rights at the centre of their response to the crises, States ensure a recovery premised upon equality, inclusiveness and a genuine sense of social cohesion. The human rights framework orients the discussion about recovery away from deficit reduction and towards the reduction of deprivation and the eradication of obstacles to the realization of rights. Human rights do not set standards for growth or economic productivity; rather, they set standards for the quality of living that individuals are able to achieve and the calibre of services that they receive.

57. There is no space in human rights for a trickle-down approach to the achievement of minimum essential levels of rights. From a human rights perspective, recovery must start with the most vulnerable and disadvantaged. Those who are living in poverty must be seen as rights-holders, not as burdensome or as passive recipients of charity.

58. Through a human rights-based recovery, States have the chance to embrace new and ambitious approaches to reducing inequality, eliminating poverty and creating stable societies and economies that will withstand future shocks. A human rights approach is the best way for States to rectify the persistent inequalities, exacerbated by successive crises, which have diminished social cohesion and increased feelings of insecurity and exclusion. Should these inequalities persevere, the result could be increasing social unrest and conflict, a reality that has been vividly illustrated across North Africa and the Middle East in recent months.

59. Increasing inequalities and food insecurity, the declining availability of natural resources and unpredictable changes to climate patterns are likely to increase the potential for social unrest throughout the world. Any recovery plan must anticipate these challenges and assume that there will be many more crises to recover from. What is needed, therefore, is human rights-based change that directly addresses the long-term structural barriers to equality and sets the foundations for a sustainable, socially inclusive society.

VII. Conclusions and recommendations

60. **While the impact of the crises has differed markedly in each country, all States must take into account their international human rights obligations when designing policy responses. Before implementing any policy measure, States must assess its social impact, including from a gender perspective, and should only adopt policies that are compatible with their international human rights obligations. Cuts in funding to social services that have the greatest impact on the lives of those living in poverty should be a measure of last resort, and should be taken only after serious consideration of all alternative policy options, including how funding to other areas not directly linked with the enjoyment of economic, social and cultural rights might be otherwise reduced.**

61. **In addition to the short-term responses to address immediately the impact of the crises, States must adopt a comprehensive long-term strategy for sustainable development aimed at addressing the root causes of poverty. In this regard, respect for all human rights, including the rule of law, gender equality and empowerment of women, inclusive participation, freedoms of association and expression, and equal access to public services are essential for poverty reduction. According to the circumstances of each State, national development strategies should also support**

small-scale farming through land redistribution, equal access to financial services and ensuring access to public services and infrastructure in rural areas.

62. Reducing poverty and promoting social inclusion require not only comprehensive national strategies but also international collective action to ensure equitable international regulatory measures and international assistance and cooperation. Particularly pressing is the need to address widespread food insecurity and rising food prices. Strategies that support rural development, promote sustainable food production and reduce volatility in commodity markets must be a priority for States at both the national and international levels.

63. Acknowledging that no one policy recommendation is a panacea for recovery, the Independent Expert recommends a number of innovative measures to which States should lend serious consideration when formulating their vision for recovery. These are outlined from a human rights perspective below.

A. Ensuring a social protection floor for all

64. The crises have demonstrated that long-term investments in comprehensive social protection systems are necessary to cushion the impact of crises, reduce poverty and inequality and contribute to economic growth. A comprehensive rights-based social protection system must therefore be the foundation of any transformative recovery from the global economic and financial crises. Strengthening social protection systems now will ensure greater resilience against future crises, while supporting the most vulnerable will help to prevent the transmission of the effects of the crises to future generations. In order to avoid causing permanent and long-lasting detriment to those living in poverty, States should preserve their investments in social protection and take steps to increase investments where possible.

65. The recovery from the crises presents an opportunity for States to ensure a social protection floor for everyone under their jurisdiction. This concept refers to a minimum level of social protection that everyone should enjoy. A national social protection floor is a basic set of rights and transfers that enables and empowers all members of a society to have access to essential services (such as adequate nutrition, health, education, housing, water and sanitation) and income security (through social transfers). The term “social floor” can correspond to the existing notion of “core obligations”, to ensure the realization of, at the very least, minimum essential levels of economic, social and cultural rights.

66. Social protection floor initiatives must be implemented from a rights-based approach. In previous reports, the Independent Expert has gone into considerable detail about the rights-based approach to social protection.⁴⁰ The Expert reminds States that the right to social security is not dispensed with or diluted during times of crisis or recovery; indeed, it is more acute and pressing than ever. In order to ensure that social protection systems are in line with human rights standards, States should establish a solid legal and institutional framework for social protection measures at the national level.

67. By creating legal entitlements or social protection guarantees, States ensure that beneficiaries are empowered and become rights-holders. This also ensures the continuity of the programme, protecting it against political manipulation and preventing programmes from being captured by the private sector or local elites. The

⁴⁰ See for example A/HRC/11/9, A/HRC/14/31, A/64/279 and A/65/259.

legal and institutional framework regulating social protection should clearly define the role and responsibilities of all stakeholders and must guarantee the existence of accessible complaint mechanisms.

68. Social protection systems must also incorporate effective and meaningful participatory mechanisms that ensure the effectiveness and sustainability of the programmes and compliance with the fundamental right to participate.

69. A rights-based approach also requires policymakers to ensure that all persons are protected in an equal and non-discriminatory manner. This principle implies a preference for social protection systems that are universal. While policies should prioritize the most vulnerable and disadvantaged in line with human rights standards, they must also form part of longer-term strategies to progressively ensure universal coverage. States must carefully screen policy choices to avoid the unfair exclusion of disadvantaged and disempowered groups and actively seek out ways to ensure that they are reached. In this regard, social protection programmes must be physically and culturally accessible to all.

B. Promoting employment and supporting decent work

70. A key priority for many States in responding to the crises is the reduction of unemployment, which has increased dramatically over the past few years, especially among the poorest and most vulnerable groups. Employment creation is a vital means of providing income security, generating economic growth, restoring social cohesion, preventing social and political instability and enabling individuals to achieve a number of economic, social and cultural rights, including the right to work,⁴¹ which is essential for realizing other human rights and forms an inseparable and inherent part of human dignity.⁴²

71. While the creation of jobs is an integral part of any economic recovery, it is vital that States direct their efforts at generating opportunities for sustainable, productive and decent work in which individuals can exercise and realize their human rights. Employment policies must respect the human rights framework. This has broad implications: from protecting workers' rights to adopting policies to ensure equal access to employment by the most vulnerable and disadvantaged groups in society.

72. Human rights standards relating to working conditions require States to ensure just and favourable conditions of work, including safe and healthy working conditions, reasonably limited working hours and paid annual leave.⁴³ The right to form and join trade union organizations and engage in collective bargaining must be ensured.⁴⁴ Workers must have access to a social security system that provides for the broadest possible coverage (such as health care, sickness compensation, old age pensions and compensation for employment-related injuries).⁴⁵

⁴¹ International Covenant on Economic, Social and Cultural Rights, art. 6.

⁴² Committee on Economic, Social and Cultural Rights, general comment No. 18, para. 1.

⁴³ International Covenant on Economic, Social and Cultural Rights, art. 7.

⁴⁴ International Covenant on Economic, Social and Cultural Rights, art. 8, and International Covenant on Civil and Political Rights, art. 2.

⁴⁵ International Covenant on Economic, Social and Cultural Rights, art. 9; see also general comment No. 19, paras. 12-21.

73. Any form of discrimination, such as that based on sex, race, ethnicity or religion, against workers must be prohibited.⁴⁶ Workers' remuneration must be fair, allowing for a decent living for workers and their family. Equal remuneration for work of equal value must also be ensured without discrimination of any kind; in particular, women must enjoy equal pay with men.⁴⁷ Special protection for women during pregnancy, and for persons with disabilities, must also be put in place.⁴⁸ To ensure the implementation of these obligations, States must regulate labour markets and establish mechanisms to strengthen the accountability of private actors. A greater number of avenues for dialogue between employers and workers, and the opportunity for workers to participate in the design and implementation of employment policies, will further assist States in meeting their human rights obligations.

74. Considering that the majority of people living in poverty earn their livelihoods in the informal sector, under difficult conditions and receive low and irregular wages, policies should prioritize improving their working conditions and extending formal social protection to them. To this end, policymakers should consider encouraging the formalization of informal firms, and specifically of employment relations. These measures have the potential to reduce labour market inequality and to extend the coverage of labour institutions to groups that were previously excluded.⁴⁹ States should ensure, however, that such measures are taken without increasing poverty and vulnerability.

75. The obligations of non-discrimination and equality oblige States to ensure that employment creation policies benefit all sectors of society equally. Policies that increase the employability (for example, through demand-driven skills development and vocational training) of groups that face specific barriers in their access to employment, such as women, persons with disabilities, young people and indigenous populations, will assist States in fulfilling their human rights obligations. To remove obstacles to employment for women, States should ensure the availability of care services (from the State, the community and the market), the redistribution of paid and unpaid work from a gender perspective and the elimination of all forms of gender discrimination. States are not only obliged to undertake effective legislation to this end, but also to take measures to modify social and cultural patterns of conduct of men and women.⁵⁰

76. Job-creation initiatives and improvements in working conditions should be complemented by investments in social protection systems, particularly non-contributory benefits and public services, in order to provide comprehensive support for those most affected by the crises while also promoting long-term recovery. The State must ensure that recovery measures do not discriminate against any segment of society, including those who are unable to work or who face greater barriers in their access to employment.

⁴⁶ See for example Convention on the Elimination of All Forms of Discrimination against Women, art. 11; and International Convention on the Elimination of All Forms of Racial Discrimination, art. 5.

⁴⁷ International Covenant on Economic, Social and Cultural Rights, art. 7, and Convention on the Elimination of All Forms of Discrimination against Women, art. 11.

⁴⁸ See International Covenant on Economic, Social and Cultural Rights, art. 10, Convention on the Elimination of All Forms of Discrimination against Women, art. 11, and Convention on the Rights of Persons with Disabilities, art. 27.

⁴⁹ Economic Commission for Latin America and the Caribbean, "Time for equality: closing gaps, opening trails", 2010, p. 166.

⁵⁰ See Convention on the Elimination of All Forms of Discrimination against Women, arts. 3 and 5(2).

C. Ensuring gender-sensitive policies

77. Studies by the United Nations Development Fund for Women (UNIFEM) have shown that previous and current stimulus packages in several countries have tended to favour men over women, despite the fact that women had been more severely affected by the crises.⁵¹ If a gender approach is not actively considered, there is a serious risk that the recovery from the crises will also exclude women.

78. There are several measures that States should take to ensure a gender approach in the design and implementation of recovery measures. For example, States should conduct a comprehensive and disaggregated gender analysis that assesses the vulnerabilities of both genders as potential beneficiaries of social policies, and design responses accordingly. In designing measures, policymakers should consider the impact of the crises on women's domestic (unpaid) and care work.

79. Recovery measures should prioritize investments in education and skill development for women and girls, provide investment in sectors where women make up a considerable proportion of the labour force (such as in export manufacturing) and undertake gender budgeting to ensure that women benefit equally from public investments. Policymakers must design, implement, monitor and evaluate initiatives through a gender lens, so that policies are able to address asymmetries of power and structural inequalities, and enhance the realization of women's rights.

D. Implementing socially responsible taxation policies

80. In several countries, the crises have demonstrated a clear need to maximize means of harnessing resources specifically for the realization of economic, social and cultural rights. States should identify additional sources of fiscal space to increase resources for social and economic recovery. From an array of options, States should particularly consider widening the tax base, improving the efficiency of tax collection and reprioritizing expenditures. These types of reforms could help States to achieve a more progressive, equitable and sustainable taxation regime while complying with a human rights framework.

81. When contemplating widening the tax base, human rights principles require careful consideration to be given to rebalancing the tax contributions of corporations and those in high-income brackets. The introduction of new or higher taxes should not have a detrimental impact on those living in poverty. Improving the efficiency of tax collection requires reconsidering ineffective tax holidays, exemptions and waivers that disproportionately benefit better-off segments of society. A human rights approach also requires States to take steps to eliminate the prevalence of tax evasion, a problem that reduces the resources available for measures to realize human rights. Consideration should also be given to reprioritizing spending on social sectors (such as education and health) over, for example, military expenditures in order to ensure the maximum use of available resources for the realization of economic, social and cultural rights. As discussed below, a human rights approach requires States to debate fiscal options openly, avoiding technocratic decisions being made behind closed doors, and instead allowing for greater transparency and participation.

⁵¹ See, for example, Adam McCarty, Lorraine Corner and Katherine Guy, "The differential impact of the Vietnamese economic stimulus package on women and men", UNIFEM and Mekong Economics, 2009; and UNIFEM, "Making economic stimulus packages work for women and gender equality", UNIFEM Working Paper, 2009.

E. Enhancing regulation that protects individuals from abuse by private actors

82. Today, States have the opportunity to address the problems in the architecture of the global financial and monetary systems that have been exposed by the crises. The weaknesses of a deregulated free market have been brought into sharp relief in recent years, and States should utilize this moment to meet the challenge of restructuring the global financial system so that it is more equitable and protects against economic shocks with the potential to devastate the lives of the most vulnerable.

83. The human rights framework obliges States to take measures to ensure that individuals under their jurisdiction are protected from infringements of their rights by third parties, and to take all available legal or policy measures to prevent third parties from violating economic, social and cultural rights. Accordingly, States should take immediate steps to regulate the actions of banking and financial sector entities under their control, in order to prevent them from violating or infringing upon human rights.

84. A human rights approach stipulates that legal and policy measures to strengthen the accountability and transparency of financial systems should be taken. In order for States to meet their duty to protect, the banking sector should be regulated to obligate banking institutions to serve the interests of society by, for example, ensuring access to credit without discrimination, especially those struggling under increased economic burdens. States should ensure adequate means of redress for those adversely affected by the actions taken by financial sector institutions, and adopt regulations that discourage harmful practices by providing for accountability mechanisms that penalize risky behaviours and prosecute perpetrators.

85. Enhancing regulation requires States to take collective action and to provide international assistance and cooperation (see paragraphs 94-99 below). It is critically important that States reach a consensus on regulatory actions to improve the functioning and transparency of financial commodity markets in order to curb financial speculation and excessive commodity price volatility, which directly affect the enjoyment of the right to food by those living in poverty.

F. Strengthening State institutional and technical capacity

86. To address future crises in an effective and timely manner, ensuring that the most disadvantaged and vulnerable groups are protected, States should improve their technical and institutional capacity to develop evidence-based policymaking. Depending on the domestic circumstances of each country, this may include enhancing the capacity to mobilize fiscal space and improving research and analytical capabilities to identify and quantify the impact of economic shocks on the most vulnerable.

87. States should ensure that staff in key Government departments are trained and have the analytical skills to assess the human rights implications of their decisions. States should also put in place coordination mechanisms to ensure communication and information-sharing between Government departments on human rights-related issues.

G. Improving the collection of data and poverty monitoring systems

88. The sheer surprise with which the most recent crises took the international community is telling not only of the rapidity of transmission of the crises, but of the inability of States to predict and prepare for shocks and to understand the multiple dimensions of poverty. In order to better inform policy debates on how best to prioritize the human rights of the most vulnerable and disadvantaged, States need to be able to identify them more accurately and efficiently and to assess their needs. To this end, States should work towards creating mechanisms that provide better information about the incidence and substance of deprivation and inequality. This includes instituting means of gathering larger quantities of better quality disaggregated data on the impact of the crises and of recovery policies. Data should be disaggregated according to several dimensions, such as gender, age, geographical location, ethnicity and health status. It is also crucial that, in the face of rising food prices, States monitor in a timely manner the development of local food prices in order to ensure prompt and appropriate policy responses.

H. Increasing participation and creating a national dialogue

89. A human rights-based recovery from the successive crises must be one in which all segments of society play a significant role. The human rights principles of participation, transparency and accountability require States to create and maintain mechanisms by which individuals can meaningfully and effectively contribute to, provide feedback on and claim redress from policy measures that affect their enjoyment of human rights.

90. In order to satisfy their human rights obligations and thus ensure participation and transparency in policy formulation, States should construct permanent structures and pathways for consultation with individuals, civil society, community organizations, grass-roots movements and the academic community. They should also take measures to invest in the capacity of these groups to contribute to and participate in policy formulation.

91. Increasing participation in policymaking allows States to assess more adequately the root causes of deprivation in any given community, the structural challenges to poverty alleviation, the local cultural, ethnic or societal obstacles to successful poverty reduction, and the best means of reaching the most vulnerable. It therefore increases the likelihood that policies will be effective in reaching the poorest members and segments of society and will improve their degree of enjoyment of human rights.

I. Ensuring an environmentally sustainable recovery

92. States should only adopt legal and policy measures that are compatible with the sustainability and prosperity of communities in both rural and urban areas. Climate change and environmental degradation will continue to endanger the lives and livelihoods of the poorest and most disadvantaged, many of whom rely on natural resources as a basic means of survival. Activities undertaken by rural populations, such as agriculture, aquaculture, fishery and forestry, are severely exposed to climate change.

93. States need to focus efforts on a recovery that can prepare for and mitigate the effect of future climatic crises, through, for example, social protection programmes

that provide economic security to individuals most likely to be affected by crises. States should also make human rights impact assessments and risk analyses prior to initiating climate change mitigation or adaptation projects in order to avoid adverse effects on the enjoyment of human rights.

J. Enhancing international assistance and cooperation

94. To ensure an equitable and sustainable recovery from successive crises, States should redouble their efforts to meet long-standing human rights commitments to provide international assistance and cooperation.⁵² Acknowledging that many developing countries have a limited financial and institutional ability to respond to the impact of the crises and cannot afford increased public deficits, developed States should not use the crises to justify cuts in development assistance. Increased international aid could help reduce fiscal pressure for many low-income countries. States should therefore take concrete steps to reach the target of 0.7 per cent of GNP in ODA. To ensure that ODA is effective, it should be given under conditions that respect national ownership and be predictable, transparent and harmonized with national priorities.

95. States should look for innovative means of generating financial resources to assist developing countries in taking a human rights response to crises. In this context, States should seriously consider introducing a financial transaction tax. Such a tax would appropriately represent the financial sector's contribution to recovering the costs of the global economic and financial crises and provide a new and necessary resource to be allocated to poverty alleviation and development initiatives, including the achievement of the Millennium Development Goals.⁵³

96. The Independent Expert urges G20 countries to give serious thought to the proposal by France to introduce a financial transaction tax, and welcomes the recent decision to commission an inquiry into the feasibility of implementing such a tax. A global consensus on a financial transaction tax would represent an historic decision to prioritize the most disadvantaged and marginalized and be a valuable means of assisting developing countries to meet obligations to ensure the full realization of all economic, social and cultural rights.

97. Consensus and collective action are also essential to address the deficits in the global financial and economic architecture. Given that domestic economies are intertwined with the global economic system, in order for poverty to be reduced, national efforts must be supported by an enabling international environment. In this regard, an open, non-discriminatory, equitable and transparent multilateral trading system is essential. The Independent Expert calls on States to honour their commitments to working expeditiously towards a balanced and ambitious, comprehensive and development-oriented outcome of the Doha Development Agenda.⁵⁴ It is vitally important that States agree on measures to address the financial and economic causes of food insecurity. The Expert urges the G20 to take immediate action to improve the regulation, functioning and transparency of financial commodity markets in order to address excessive commodity price volatility.

⁵² International Covenant on Economic, Social and Cultural Rights, art. 2(1); Charter of the United Nations, Art. 1(3).

⁵³ Institute of Development Studies, "Is a financial transaction tax a good idea? A review of the evidence", issue 14.2, IDS In Focus Policy Briefing, October 2010.

⁵⁴ General Assembly resolution 65/1, para. 78.

98. International financial institutions have played a vital role in providing financial and institutional support to many developing countries during the crises and in their aftermath; however, onerous conditionalities raise several human rights concerns. States that are members of these institutions should ensure that human rights are prioritized in all policies and measures.⁵⁵ This obligation lies particularly with those States with the greatest powers of participation, voting and decision-making in the institutions. They must ensure that the actions of the institutions do not impede the realization of human rights.⁵⁶ Moreover, States should remain committed to undertaking major reforms to the governance of these institutions to be more inclusive and representative, and to enhance transparency and accountability.

99. In their negotiations and agreements with international financial institutions, States' obligations under the International Covenant on Economic, Social and Cultural Rights should be taken into account to ensure that economic, social and cultural rights are not undermined. In the context of responding to the crises, States must take care not to agree to loan conditions that might compromise their ability to meet their obligations regarding the realization of human rights.

⁵⁵ Committee on Economic, Social and Cultural Rights, general comment No. 14, para. 39.

⁵⁶ Ibid.