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**PROMOTION AND PROTECTION OF HUMAN RIGHTS**

**Human rights and international solidarity**

**Note by the United Nations High Commissioner for Human Rights**

The High Commissioner for Human Rights has the honour to submit to the members of the Commission on Human Rights the report of the independent expert on human rights and international solidarity, Rudi Muhammad Rizki, appointed pursuant to Commission resolution 2005/55.

## **Summary**

The present report is submitted at the request of the Commission on Human Rights in its resolution 2005/55 in which the Commission decided, taking into account the urgent need to further develop guidelines, standards, norms and principles with a view to promoting and protecting rights closely related to the fundamental value of solidarity, to appoint an independent expert on human rights and international solidarity for a period of three years. The Commission requested the independent expert to study the issue and to prepare a draft declaration on the right of peoples to international solidarity. It further requested the independent expert to take into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields, as well as to seek views and contributions from Governments, United Nations agencies, other relevant organizations and non-governmental organizations (NGOs) in the discharge of his or her mandate. The present report contains an overview of the independent expert's approach to the mandate including objectives and methodology (sect. I), preliminary considerations that will be refined and developed in subsequent reports (sect. II) and possible main areas of focus (sect. III), followed by some concluding remarks (sect. IV).

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## **Introduction**

1. At its sixty-first session, the Commission on Human Rights adopted resolution 2005/55 on human rights and international solidarity, to emphasize the importance of international solidarity as a vital component of the efforts of developing countries towards the realization of the right to development of their peoples and the promotion of the full enjoyment of economic, social and cultural rights by everyone. In this resolution, the Commission decided, taking into account the urgent need to further develop guidelines, standards, norms and principles with a view to promoting and protecting rights closely related to the fundamental value of solidarity, to appoint an independent expert on human rights and international solidarity for a period of three years.
2. The Commission requested the independent expert to study the issue and to prepare a draft declaration on the right of peoples to international solidarity. It further requested the independent expert to take into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields, as well as to seek views and contributions from Governments, United Nations agencies, other relevant organizations and non-governmental organizations in the discharge of his or her mandate. The independent expert was also requested to report annually to the Commission on the progress made in the fulfilment of the mandate.
3. The Economic and Social Council, in its decision 2005/271 of 25 July 2005, took note of and endorsed the Commission's decision to appoint an independent expert on human rights and international solidarity for a period of three years to study the issue and prepare a draft declaration on the right of peoples to international solidarity, taking into account the outcomes of all major United Nations and other global summits and ministerial meetings in the economic and social fields and seeking views and contributions from Governments, United Nations agencies, other relevant international organizations and non-governmental organizations.
4. On 28 July 2005, the Chairperson of the Commission on Human Rights, following consultations with the Expanded Bureau of the sixty-first session, appointed Rudi Muhammad Rizki as independent expert on human rights and international solidarity.
5. The present report contains an overview of the independent expert's approach to the mandate, including objectives and methodology (sect. I), preliminary considerations that will be refined and developed in subsequent reports (sect. II) and possible main areas of focus (sect. III), followed by some concluding remarks (sect. IV).

### **I. APPROACH TO THE MANDATE AND METHODOLOGY**

6. In accordance with Sub-Commission on the Promotion and Protection of Human Rights decision 2003/115, Rui Baltazar Dos Santos Alves prepared a preliminary report on the issue of human rights and international solidarity. This working paper concludes that human rights and international solidarity constitute an extremely broad area of research, which still arouses controversy and lacks deep analysis and study. The working paper concludes that, within the context of globalization and the widening gap between developed and developing countries,

strengthening international solidarity is necessary for the effective realization of human rights. International solidarity as an instrument for the attainment of human rights is a fact of international life that should be valued, but which needs new development, with the objective of building a more just and equitable international order that favours these rights. In interpreting the concept of international solidarity, the author of the working paper further argues that there should be a right/duty of international solidarity in matters of human rights and related areas.

7. Commission resolution 2005/55 reaffirms some of these elements, particularly that the widening gap between the economically developed and developing countries is unsustainable and impedes the realization of human rights. This makes it all the more imperative for every nation, according to its capacities, to make the maximum possible effort to close the gap.

8. The independent expert intends to approach the issue of human rights and international solidarity through the development of a sound theoretical basis and a thorough examination of practical examples.

9. The elaboration of a theoretical basis for the mandate is necessary, given the dearth of research and lack of in-depth analysis done on the subject of solidarity and human rights. Research for this theoretical basis would take into account relevant international instruments (such as the Charter of the United Nations, the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights), documents emanating from the United Nations system (reports of OHCHR, other United Nations bodies, organs and agencies, reports of special procedure mandate holders), academic writings and publications (by international and regional organizations, including non-governmental organizations, and community-based and grass-roots organizations), pertaining to the subject matter. As stipulated by the Commission resolution, the research would also take into account the outcomes of major United Nations and other global summits and ministerial meetings in relevant fields. This will include the United Nations Millennium Declaration, the 2005 Millennium Review World Summit Outcome, the outcomes of World Trade Organization Ministerial Meetings, the Monterrey Consensus, the Rio Declaration on Environment and Development, the Malmö Ministerial Declaration, the Johannesburg Plan of Implementation of the World Summit on Sustainable Development, the Kyoto Protocol to the United Nations Framework Convention on Climate Change, Programme of Action of the Cairo International Conference on Population and Development, the Istanbul Declaration on Human Settlements, the Copenhagen Declaration of the World Summit for Social Development, and the United Nations Educational, Scientific and Cultural Organization Universal Declaration on Cultural Diversity.

10. In addition, the independent expert intends to distribute a questionnaire to all Member States, related United Nations agencies and NGOs, to arrive at a more comprehensive understanding of solidarity, and to identify basic parameters of the principle of international solidarity. Furthermore, the independent expert intends to draw on work done in recent years with respect to the right to development, and on human rights-based approaches, including those elaborated with respect to development and to poverty-reduction strategies.

11. The results of the research and analysis and the information received on the basis of the questionnaire would be the basis for the development of a framework for assessment, by means of which the independent expert could proceed to examine specific examples on the ground, which demonstrate a clear expression of international solidarity.

12. These examples would fall within the scope of issues identified in the resolution of the Commission on Human Rights, and the independent expert has selected a number of main areas of focus, outlined in more detail in section III.

## **II. PRELIMINARY CONSIDERATIONS REGARDING SOLIDARITY**

13. The working paper of the Sub-Commission states that solidarity implies a communion of responsibilities and interests between individuals, groups, nations and States, and sometimes it appears linked to the ideal of fraternity proclaimed by the French Revolution. The notion of solidarity corresponds to the notion of cooperation, because one could only cooperate in an act of solidarity. Solidarity is one of the greatest values in the construction of human rights (see Sub-Commission report E/CN.4/Sub.2/2004/43, paragraph 22).

14. As the independent expert intends to develop more comprehensively his understanding of solidarity, a few preliminary considerations are presented in the present report, which would form in part the basis of his further work.

15. A dictionary definition of the word “solidarity” is the union of interests, purposes or sympathies among members of a group, or a fellowship of responsibilities and interests. According to the sociologist Emile Durkheim, solidarity, as it resulted from modernization and post-industrialization - which he referred to as organic solidarity - is social cohesion based upon the dependence individuals in more advanced society have on each other, and commonly found among industrial societies as the division of labour increases. Although individuals perform different tasks and often have different values and interests, the order and very survival of society depends on their reliance on each other to perform their specific task.

16. In the context of international human rights law, the term “solidarity” is considered to have at least two different uses. First, it has been used in the sense of “solidarity rights”, which refer to the third-generation rights discussed later in the present report. These rights, by their nature and application, require “international cooperation and joint activity to give them effect, such as the right to peace, to a clean environment, to development, and to humanitarian assistance”, all of which have a collective and cooperative character. Secondly, the term is used in the sense of a right to solidarity, a separate right in the category of third-generation rights.<sup>1</sup>

17. Based on these definitions, international or global solidarity would mean the union of interests or purposes among countries of the world, and social cohesion between them based upon the dependence of States and other international actors on each other, in order to preserve the order and the very survival of international society, and in order to achieve collective goals, which require international cooperation and joint action.

18. This understanding of the principle of solidarity resonates clearly in the various milestone documents of the United Nations, as the primary international assembly of countries dealing with peace and security, development and human rights. First, the United Nations

Millennium Declaration, adopted by the largest number of heads of State and Government on 8 September 2000 (General Assembly resolution 55/2), reaffirmed faith in the United Nations and its Charter as indispensable foundations of a more peaceful, prosperous and just world, and that, in addition to the separate responsibilities of individual societies, the Member States of the United Nations have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. The Millennium Declaration gives a particular interpretation of the term solidarity, as one of the fundamental values of international relations in the twenty-first century: "Global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most" (para. 6).

19. Likewise, the 2005 World Summit Outcome document, adopted in September 2005, as a result of follow-up to the outcome of the Millennium Summit (see General Assembly resolution 60/1), recalls solidarity as one of the common fundamental values essential to international relations, stating that in the global and interdependent world that we live in today, no State can stand wholly alone.

20. For the purposes of the mandate, the independent expert would prefer to use the term global solidarity, as the term international solidarity in the resolution has acquired a particular connotation in international politics, and also as the term global solidarity would more appropriately include the relationship of solidarity between States and other actors, such as international organizations, and civil society actors, including grass-roots and community-based organizations.

### **III. MAIN AREAS OF FOCUS**

21. On the basis of Commission resolution 2005/55, the independent expert has identified three major areas of focus, which he would like to develop in the course of his mandate.

#### **A. International cooperation**

22. The first area of focus would be international cooperation, which is mentioned numerous times in the Commission resolution. Effective international cooperation is considered of essential importance to promote more rapid development of developing countries, in providing these countries with appropriate means and facilities to foster their comprehensive development. Given that the issue of international cooperation has received considerable attention in the context of the right to development, and also in the framework of economic, social and cultural rights, the independent expert will either focus on less developed areas of this topic, or take into account the state of discussion with respect to international cooperation, in order to provide complementary and constructive contributions.

23. A possible theme to explore concerns the implementation of the United Nations Millennium Declaration and the Millennium Development Goals (the Goals), with particular focus on Goal 8, which deals with global partnership for development. A justification for this choice is that the realization of these Goals is an important priority for the international community, and work is being done in this regard by mechanisms of the Commission on Human Rights, such as the Open-ended Working Group on the right to development and the high-level task force on the implementation of the right to development, as well as by the

Office of the High Commissioner. A particular reason to focus on Goal 8 is that the concept of solidarity is closely related to the partnership-aspect of Goal 8, and examination of how solidarity features in the context of Goal 8 would be conducive to understanding the notion of solidarity in the context of the other Goals. Goal 8 encompasses a wide range of issues related to international cooperation - eight targets ranging from drinking water, housing, the international financial and trading system, access to affordable essential drugs and to the transfer of technology. Therefore, the independent expert will decide at a later stage which more specific topics to focus on for the examination of concrete examples.

### **B. Global responses to natural disasters**

24. The second area of focus would be global responses to natural disasters, diseases and agricultural pests, and to the negative social, economic and environmental consequences of such events and occurrences. The independent expert will focus primarily on natural disasters, as the Commission resolution specifically mentions the tsunami disaster that struck the Indian Ocean and South-East Asian regions on 26 December 2004. The independent expert also intends to examine the response to hurricane Katrina, which hit the southern part of the United States in August 2005, and the earthquake that struck Pakistan and India in October 2005. The examination of international humanitarian assistance and other international relief and recovery efforts in the wake of these natural disasters will be undertaken by means of the framework of assessment to be developed. It will be particularly interesting in this regard to further develop understanding of the relationship between human rights law and humanitarian law in light of the principle of solidarity. Of particular interest also is the need to ascertain whether global responses to natural disaster that expressed the international solidarity are sustained and contribute to promotion and protection of human rights.

### **C. Third-generation or collective rights**

25. The third area of focus selected by the independent expert would be what the Commission resolution refers to as “third-generation rights”. In the resolution, the Commission recognizes that these rights, closely related to the fundamental value of solidarity, need further progressive development within the United Nations human rights machinery in order to respond to the increasing challenges of international cooperation in this field. Third-generation rights, still a debated issue in academic circles and in international forums, focus essentially on fraternity and, in generic terms, could be seen as rights of solidarity.

26. An explanation for the term “third-generation rights” derives from the political divisions at the time of the Cold War, when the so-called “first-generation” rights, or civil and political rights, were championed by the West, “second-generation” rights, i.e. economic, social and cultural rights, were promoted by the East and allied countries, and “third-generation”, or solidarity, rights by the Third World developing countries. These divisions were also reflected in the creation of the international human rights framework. The term “third-generation” is used to describe a category of human rights that are historically newer rights, but does not necessarily connote any chronological difference or hierarchy of human rights. As referred to above, third-generation rights are also known as “solidarity rights” or “rights of solidarity” - not to be confused with the right to solidarity, which is itself one of the third-generation rights.

27. Third-generation rights are collective, complex, conceptually not yet fully developed, and the subject of dispute, as to whether they are actually “rights”. Most scholars consider these rights to constitute *lex ferenda* at best, and not yet *lex lata*.<sup>2</sup>

28. Some of these rights derive from needs identified by countries from the South, primarily developing countries seeking a more equitable global distribution of means, facilities, opportunities and resources, to enable them to realize human rights of their peoples, including the right to development. Other third-generation rights are based on the recognition that individual nation States need to work together in order to collectively attain certain outcomes or to respond to certain critical events.

29. The category of third-generation rights includes the following: the right to economic and social development; the right to participate in and benefit from “the common heritage of mankind” (shared Earth and space resources; scientific, technical, and other information and progress; and cultural traditions, sites and monuments); the right to peace; the right to a healthy and sustainable environment; the right to humanitarian assistance and disaster relief; and the right to communication.

30. Some have claimed that the right to political, economic, social and cultural self-determination belongs to the category of third-generation rights. However, the right to self-determination is entrenched in two legally binding international human rights treaties, namely in common article 1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and of the International Covenant on Civil and Political Rights (ICCPR).

31. These claimed rights are generally presented as collective rights, requiring the concerted efforts of the international community. In addition to a collective dimension, each right also manifests an individual dimension. The independent expert intends to explore this further in his future reports. Some of these rights are grounded in provisions of international instruments (e.g. articles 1, 55 and 56 of the Charter of the United Nations and articles 27 and 28 of the Universal Declaration on Human Rights), including legally binding human rights treaties (e.g. the right to self-determination in article 1 of both ICCPR and ICESCR; cultural rights in article 15 of ICESCR; and the rights of ethnic, religious and linguistic minorities in article 27 of ICCPR). Otherwise, the majority of these solidarity rights have an as yet ambiguous legal status in international human rights law.

#### IV. CONCLUDING REMARKS

32. **The independent expert is mindful of the discussions preceding the adoption of the resolution on human rights and international solidarity and differences of opinion between certain groups of Member States with respect to the mandate. He is also aware of concerns and efforts made within the United Nations to avoid the duplication of work being done throughout the system and to ensure synchronicity and consistency in all activities.**

33. **In the light of these considerations, the independent expert would like to emphasize that his approach to the mandate and his choice of areas of focus have taken into account the desire of Member States to avoid unnecessary duplication of work in the**

**United Nations system on issues related to international relations and cooperation and to ensure consistency in approaches taken, the need for a constructive and unifying contribution to the debate concerning this topic, as well as focusing on topics that deserve more attention in the form of serious research and exploration.**

34. **The independent expert looks forward to working together with relevant special procedure mandate holders and mechanisms of the Commission, especially those working on mandates closely related to international solidarity. Finally, the independent expert stresses that an effective discharge of his mandate will only be possible with the full cooperation of Member States, international organizations and non-governmental organizations, as well as with adequate support from the Office of the High Commissioner for Human Rights.**

#### Notes

<sup>1</sup> H. Victor Conde, *A Handbook of International Human Rights Terminology*, University of Nebraska Press, Lincoln and London, 1999, p. 138.

<sup>2</sup> *Ibid.*, pp. 148-149.

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