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Joe W. Pitts III

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THE FIRST U.N. SOCIAL FORUM: HISTORY AND ANALYSIS

JOE W. (CHIP) PITTS III*

As he has had with a number of other United Nations and international conferences, the author had the opportunity to attend the proceedings of the inaugural U.N. Social Forum as an observer and non-governmental delegate. The following article thus represents the author's impressions of events as he observed them.

In the last few years a number of events have developed aiming at giving NGOs, the poor and civil society in general a voice in globalization and poverty reduction issues. The Davos World Economic Forum has opened its doors to at least a selective representation of certain Non-Governmental Organizations (NGOs); the "World Social Forum" counter-event to the World Economic Forum has now met thrice in Porto Alegre, Brazil; and there was even a small "World Civil Society" meeting which met in Geneva just before the U.N. Social Forum. With all these and other proliferating events, it might be properly asked whether another 'social forum' is needed, and if so, why.

The U.N. Social Forum was conceived over several years as a platform *within the U.N. system* for the exchange of ideas and perhaps actions aimed at effectively incorporating human rights, especially *economic, social, and cultural rights* into policymaking, for the benefit of those members of the poor and vulnerable segments of society *whose voices are not usually heard* within that system. In a Working Paper submitted to the 2002 meeting of the U.N. Sub-Commission on the Promotion and Protection of Human Rights, the Sub-Commission member from Chile and the leading advocate for the Social Forum Mr. José Bengoa describes the years of discussion aimed at creating a "new forum for debate within the United Nations for analysis of the relationship between globalization and human rights, in particular economic, social, and cultural rights, in a globalized world."¹ The Social Forum complements the U.N.'s overall priorities of promoting and protecting peace, stability, human rights, sustainable development, and poverty eradication, including the specific anti-poverty priority that emerged from the Millennium Summit.

In her five year service as High Commissioner for Human Rights, Ms. Mary

* The author is the former Chief Legal Officer of Nokia, Inc. ©2003 All Rights Reserved

1. *Economic, Social and Cultural Rights, The Social Forum: Report of the Chairman-Rapporteur, Mr. José Bengoa*, U.N. ESCOR, 44th Sess., Agenda Item 4, U.N. Doc., E/CN.4/Sub.2/2002/3.

Robinson came to understand that poverty eradication is the most pressing human rights issue facing the world. Poverty both affects, and is affected by, other human rights violations. Ms. Robinson noted in her address to the Sub-Commission in 2001 that part of the motivation for the Social Forum was to contribute to ensuring that globalization will be positive for the world's poor as well as the world's rich. This basic objective has also been key to the thinking of Mr. Bengoa. He also continually has stressed the importance of inclusiveness, not only from the perspective of including (usually excluded) representatives of the poor in the discussion, but also in terms of engaging non-state actors such as private enterprise and international financial institutions (IFIs) in the dialogue. Bengoa is thus sympathetic to ideas for global policy networks for policy change.

I. GLOBALIZATION AND THE HISTORICAL CONTEXT FOR THE SOCIAL FORUM

Whether by globalization we mean increasing global economic exchange, or increased global exchanges of all sorts, globalization has proceeded for millennia, and has accelerated during the past 500 years. After World War II, however, with the institution of the General Agreement on Tariffs and Trade, economic growth exploded. This growth, however, disproportionately benefited developed industrial countries, as opposed to developing nations emerging from colonialism. By the late 1990's, discontent with persistent poverty and perceived growing inequality reached a fever pitch with demonstrations at Seattle, then Prague, Genoa, and other cities against a global economic order that simply wasn't working for many of the least well off in the world.

Consciousness of the new questions surrounding globalization resulted in a 1995 proposal by Norwegian Sub-Commission member Asbjørn Eide to study income distribution nationally and internationally. Mr. Bengoa was selected Special Rapporteur, and completed his preliminary report on the subject the same year, noting the links between income distribution and equality of opportunity in a given society.² His subsequent and final reports found increases in inequality and poverty accompanying the late twentieth century globalization.³ Mr. Bengoa's

2. *The Realization of Economic, Social and Cultural Rights: Provisional Report on the Relationship between the Enjoyment of Human Rights, in Particular Economic, Social and Cultural Rights, and Income Distribution, prepared by Mr. José Bengoa*, U.N. ESCOR, 47th Sess., Provisional Agenda Item 8, U.N. Doc. E/CN.4/Sub.2/1995/14.

3. See *The Realization of Economic, Social and Cultural Rights: Provisional Report on the Relationship between the Enjoyment of Human Rights, in Particular Economic, Social, and Cultural Rights, and Income Distribution, prepared by Mr. José Bengoa*, U.N. ESCOR, 48th Sess., Provisional Agenda Item 8, U.N. Doc. E/CN.4/Sub.2/1996/14; *The realization of Economic, Social and Cultural Rights: Provisional Report on the Relationship between the Enjoyment of Human Rights, in Particular Economic, Social, and Cultural Rights, and Income Distribution, prepared by Mr. José Bengoa*, U.N. ESCOR, 49th Sess., Provisional Agenda Item 8, U.N. Doc. E/CN.4/Sub.2/1997/9; and *The Realization of Economic, Social and Cultural Rights: The Relationship between the Enjoyment of Human Rights, in Particular Economic, Social, and Cultural Rights, and Income Distribution, Poverty, Income Distribution and Globalization: A Challenge for Human Rights, Addendum to the final report prepared by Mr. José Bengoa, Special Rapporteur*, U.N. ESCOR, 50th Sess., Provisional Agenda Item 4, U.N. Doc. E/CN.4/Sub.2/1998/8.

methods of comparing national income between countries and households anticipated the more recent work of World Bank economist Branko Milanovic⁴, who found that in the five year period between 1988 and 1993, global inequality increased 5%, with the real incomes of the richest 20% increasing and the poorest 5% decreasing—a result comparable to the growth in inequality in the United Kingdom during the Thatcher years or the United States during the Reagan years.⁵ Even adjusting for lower prices in developing countries to focus on real purchasing power, according to the Milanovic study almost 80% of the world would fall below the poverty lines established in the United States and Western Europe. Moreover, of the 83 million people added to the world each year, 82 million of them are reportedly in developing countries as opposed to developed countries. This does not augur well for reducing inequality. Neither does the fact that some regions, such as Sub-Saharan Africa, are notably worse off than they were before the last trade round. Nevertheless, the recommendations of the Copenhagen World Summit in 1995 that developed countries dedicate .07% of their GNP for developing countries have been implemented by only a handful of nations (notably Norway, Sweden, Denmark, and the Netherlands).⁶

Bengoa's report noted the association of persistent poverty with increasing concentrations of wealth occurring simultaneously with globalization. Since his report, the concentration has only increased. In a widely quoted World Health Organization and U.N. Development Program comparison, the net worth of the world's richest 358 people in 1997 was greater than the combined net worth of the world's poorest 2.3 billion people, and by 1998, the gap had grown to the point that the richest 200 individuals had a cumulative net worth surpassing the world's poorest 2.5 billion people.⁷ As reiterated by the President of the World Bank, "[o]f the world's 6 billion people, 2.8 billion live on less than \$2 per day, and 1.2 billion live on less than \$1 a day".⁸ In other words, half the world's people live for a whole year on less than what many would consider the cost of a single good suit or dress, a plane ticket, or a couple of nights in a good hotel.

Bengoa sees these trends aggravated by the infamous 'race to the bottom': the competition among developing countries to attract multinational corporations and foreign investment through lax social and environmental regulations, or deregulation, and what amounts to tolerance of human rights violations. Economic, social, and cultural rights (ESC rights) have at their core the same concerns regarding the right to life, to development of the human body, and to individual dignity that underlie civil and political rights. "ESC" rights may also be seen as a prerequisite to, and minimum condition for, the exercise of civil and

4. Branko Milanovic, *True World Income Distribution, 1988 and 1993: First Calculations Based on Household Surveys Alone*, ECONOMIC JOURNAL, Jan. 2002.

5. In technical terms, the GINI coefficient (a common measure of inequality in which 0 means everyone is equal and 100 means one person has all the income) increased during this period from 62.5 to 66.0.

6. Milanovic, *supra* note 4.

7. WHO & UNDP, HUMAN DEVELOPMENT REPORT 1999 3 (Oxford University Press).

8. WORLD BANK, WORLD DEVELOPMENT REPORT 2000/2001: ATTACKING POVERTY, at v (Oxford University Press).

political rights. Globalization has focused attention on the minimum requirements for both clusters of rights. Bengoa endorses reasonable labor and environmental controls to foster 'virtuous' globalization (healthy for people in the countries concerned) as opposed to 'perverse' globalization (exploitative and unhealthy for those concerned). Presciently, Mr. Bengoa noted the link between growing social inequity and social instability and threats to both human rights and world peace. He viewed nondiscrimination in the sense of equal opportunity, both for countries and for individuals within societies, as central to addressing these threats.

Bengoa's conclusion was that a Social Forum was needed to exchange information and insights regarding these issues.

II. SUB-COMMISSION'S CREATION OF THE SOCIAL FORUM

The Sub-Commission had devoted a day of its proceedings in 2001 to discussions on the purpose and effectiveness of such a Social Forum. During those discussions topics floated for consideration included shaping globalization so that it is more fair to the poor and vulnerable, the impact of international trade, and protection of labor rights and the environment. In addition to many distinguished members of the audience, including the Special Rapporteur for Economic, Social and Cultural Rights Paul Hunt and the Special Rapporteur for Housing Miloon Kothari, the Sub-Commission was assisted in selecting topics for the inaugural Social Forum by an expert panel of speakers including Hina Jilani, UN Special Representative of the Secretary-General on the Situation of Human Rights Defenders; George Abi Saab, a Member of the World Trade Organization's Dispute Settlement Body; Andrew Clapham, a Professor at the Graduate Institute of International Studies in Geneva; and Rubens Ricupero, Secretary-General of the United Nations Conference on Trade and Development.

A major concern of the participants was to carve out a special, non-duplicative niche for the Social Forum as opposed to other U.N. bodies and mechanisms. The consensus was that the Social Forum's unique role could be to give a voice within the U.N. to the poor and those otherwise excluded on these issues. Ideally, the Social Forum could thus contribute to democratizing global economic governance by encouraging prior consultation with and participation by those affected by crucial decisions underlying globalization. Significantly, the Sub-Commission invited not only NGOs in consultative status with the U.N., but also other actors including governments, intergovernmental organizations, and newly emerging actors (including business, but also and especially actors from the South) to participate.⁹ The mandate given this more public Social Forum was not only to "exchange information on the enjoyment of economic, social and cultural rights and their relationship with the processes of globalization", but also to "follow up on situations of poverty and destitution throughout the world".¹⁰ In other words, the Social Forum was envisioned from the outset as authorized not only to provide a platform for talk, but also for action. Specific authorization was

9. U.N. SCHR, 22nd mtg., U.N. Doc. E/CN.4/Sub.2/RES/2002/12 (2002).

10. *Id.*

granted “to propose standards and initiatives of a juridical nature, guidelines and other recommendations for consideration by the Commission on Human Rights, the working groups on the right to development, the Committee on Economic, Social and Cultural Rights, the specialized agencies and other organs of the United Nations system”.¹¹ The Social Forum was also authorized to follow up on agreements at major international events and discussions of issues related to its mandate.

In order to begin with an appropriate and limited focus on a practical matter, the Sub-Commission decided by resolution that the primary topic of the first U.N. Social Forum would be “[t]he relationship between poverty reduction and the realization of the right to food.”¹² The appropriateness of this focus arguably stems from the basic nature of the subsistence right to food as a core ESC right, and one particularly susceptible to effective action through more sensible governmental policies. It is appalling that in the twenty-first Century, when humankind has learned how to produce adequate food and actually has abundant food in the world, famines and starvation continue to occur as a result of ignorant, irrational, and otherwise misguided decision-making. Food is also one of the least controversial ESC rights, as everyone immediately understands its importance to the right to life. It is also closely related to other rights, such as the right to water, and a part of and prerequisite to rights such as the right to health, or the right to education.

The discussion at the 2001 Sub-Commission also identified other themes for possible future consideration by the Social Forum, including (1) the interaction between civil and political and ESC rights; (2) the relationship between poverty, extreme poverty and human rights in a globalized world; (3) the effect of international trade, finance and economic policies on income distribution, and the corresponding consequences on equality and non-discrimination at the national and international levels; (4) the effect of international decisions on basic resources for the population, and in particular those affecting enjoyment of the right to food, the right to education, the right to the highest attainable standard of physical and mental health, the right to adequate housing and the right to an adequate standard of living; (5) the effect of the impact of international trade, finance and economic policies on vulnerable groups, especially minorities, indigenous peoples, migrants, refugees and internally displaced persons, women, children, older persons, people living with HIV/AIDS, people living with disabilities and other social sectors affected by such measures; (6) the impact of public and private, multilateral and bilateral international development cooperation on the realization of economic, social and cultural rights; (7) follow-up of agreements reached at world conferences and international summits, particularly the Copenhagen World Summit for Social Development, and by other international bodies, concerning the link between economic, commercial and financial issues and the full realization of human rights; and (8) the role of social and economic indicators and their role in the realization of economic, social and cultural rights.

11. U.N. SCHR, 22nd mtg., U.N. Doc. E/CN.4/Sub.2/RES/2002/12 (2002).

12. *Id.*

III. ECOSOC VOTE THREATENS THE SOCIAL FORUM

In order to occur, the Social Forum depended on an affirmative vote of approval from the U.N. Economic and Social Council for the Commission (ECOSOC) on Human Rights' recommendation authorizing the Social Forum.¹³ As of the day before the event, this vote had not yet taken place. The United States and certain other developed countries had never been too enthusiastic about authorizing a meeting or creating another U.N. mechanism that, in their views, could be at best an instrument for challenging the Northern-dominated global economic agenda, and at worst could be simply a wasteful, duplicative, and political forum for bashing developed countries and their interests. The NGO Preparatory Event described below thus took place under the cloud of not knowing whether the Social Forum would take place. While eventually the ECOSOC approval came through, it was over opposition from the U.S., Australia, and Japan, and with the European Union countries abstaining. The final vote was 33 favoring, 3 against, and 17 abstaining. While the Social Forum thus received eventual approval, this approval did not come in time for the planned July 25, 2002 opening day. So on that day, High Commissioner Mary Robinson regrettably announced that the Social Forum would be delayed. (While she voiced a hope that informal discussions could continue, enough governments protested proceeding in the absence of ECOSOC approval that this became impossible). The first full day of the Social Forum finally opened on July 26, but the planned second day had to be postponed until Friday of the following week. The net result was that the Social Forum, intended to serve as space for the voices of the poor, was hampered at the outset by uncertainty and a serious meeting delay undoubtedly prohibiting many of the poor who intended to participate from doing so.

IV. NGO PREPARATORY EVENT

A Preparatory NGO Meeting was held on 24 July, 2002, the day before the first U.N. Social Forum was supposed to begin, hosted by the Conference of Non-Governmental Organizations (CONGO) in Geneva, the U.N. NGO Liaison Service (UN-NGLS) and the Office of the High Commissioner for Human Rights. Hamish Jenkins of UN-NGLS served as Moderator, with Peter Prove of the CONGO's Special Committee of NGOs on Human Rights and Sub-Commissioner Member José Bengoa playing prominent roles. Mr. Bengoa described the history and purpose of the Social Forum as sketched above. Citing the economic collapse of Argentina and difficulties in Thailand and elsewhere, he said that were he to conduct his study today the results would probably be even worse. His hope was that the new spirit seen in Porto Alegre, and outside the walls of the U.N., could infuse proceedings within the U.N. through the Social Forum. The focus on the 'new' economic, social, and cultural rights and the inclusion of new actors (the poor, businesses, and IFIs) in the dialogue presented possibilities of progress and even some accountability through the Social Forum. The Social Forum could also

13. CHR 2002/106 of 22 Apr. 2002.

achieve this end through proposing “juridical initiatives.” Mr. Bengoa’s comments were followed by presentations on human rights and globalization, poverty reduction, and the right to food. There were also working group meetings on Trade and Food Security, Trade in Services, and Voluntary Guidelines for the Right to Food, and key foundational documents were made available.

1. Globalization and Human Rights

Anne Christine Habbard from FIDH (Fédération Internationale des Ligues des Droits de l’Homme) gave a provocative presentation on globalization and human rights, suggesting that the two concepts were antagonistic. She traced the conflict to contrasting bodies of law and alleged that international economic law served private interests and the market, as opposed to the more universal public interests served by human rights and regulation tempering the market. (On the other hand, as she pointed out later, multinational corporations often have higher labor and environmental standards than local companies, e.g. in Bangladesh or Indonesia).¹⁴ Her view of globalization was that rather than spreading global human norms like those relating to human rights, it entrenched inequality and hypocritically claimed that it favored equal rules for all while actually carving out exceptions (e.g., agriculture, textiles) for the U.S. and rich countries in the E.U. She cautioned that developing countries like Malaysia, however, should not have lower standards for human rights in the name of economic development. Globalization should serve human rights, with international economic treaties and policies subordinated to the primacy of human rights law. Making human rights justiciable, e.g., through an additional protocol to the Economic, Social, Cultural Convention, would be a good step toward this end.

Chien Yen Goh from Third World Network also highlighted the gap between the neoliberal economic theory of globalization and the reality that the claimed beneficial results often do not materialize. He rightly pointed out that mere liberalization, or opening the economy to trade and investment, doesn’t work if the economic situation of the country is not right or if the conditions for success aren’t present. In fact, the exposure of vulnerable local factories to premature foreign competition could be counterproductive, resulting in closed factories, more poverty, and harm to rights including the right to work, to an adequate standard of living, to health, and to education. He pointed to certain African and Asian nations as examples of the devastation that could be wrought from unwise liberalization. In short, international trade rules should accommodate the needs of developing countries, in keeping with the human development goals of the global trade regime as set forth in the GATT preamble. Despite the current trade round at Doha, Qatar having been agreed to be a “Development Round”, the developed countries do not seem to be living up to their commitments. In the discussion that followed, Hamish Jenkins pointed out that in institutionalizing unequal relationships, a

14. Not only higher labor and environmental standards, but also higher wages, can be brought by multinational companies. See, e.g., Brian Aitken et al., *Wages and Foreign Ownership: A Comparative Study of Mexico, Venezuela, and the United States*, 40 J. INT’L ECON. 345 (1996).

formal principle of equal and nondiscriminatory trade rules could actually have a discriminatory effect against developing countries.

2. Poverty Reduction Strategies

After this general discussion of globalization, trade, and human rights came a panel discussing poverty and poverty reduction strategies. From the Thailand Assembly of the Poor, Mr. Bamrung Kayotha and Dr. Suthy Prasartset cited statistics and discussed how the government's agriculture liberalization development strategy, from their perspective, actually had the effect of disenfranchising and impoverishing small farmers. Their organization opposes the inclusion of agriculture within the framework of the WTO. They also linked liberalization of foreign investment laws to these conditions. M. Jean-Baptiste Anoman Oguié from ATD Quart Monde, Côte d'Ivoire, discussed an innovative program whereby he as a magistrate combined forces with a prison nurse to help prisoners who lived in atrocious conditions (which had been aggravated by privatization of the prisons) to help themselves by growing vegetables and generally becoming more self-sufficient. After these initial steps built trust, the prisoners moved on to create projects in the fields of literacy, health, and building skills.

Mr. Alfredo Sfeir-Younis of the World Bank called for greater precision in defining human rights aspects of poverty reduction, emphasized the primary responsibility of national governments (as opposed to the IFIs) to alleviate poverty, and endorsed the need for including civil society in the effort.

3. The Right to Food

Michael Windfuhr of Food First Information and Action Network led the presentation and discussion on the right to food, in which he emphasized the importance of a rights-based approach in the effort to build political will for policy change. He argued that the nature of the right "as a right" means that economic or other trade-offs are unacceptable, and that breaches of the minimum content required are violations requiring redress and compensation. As a right to be progressively fulfilled to the maximum extent of available resources (and with corresponding legal obligations and compensation for any violation), the right to food is integrally related to other rights (such as the right to water), and its content is authoritatively defined by General Comment 12 of the Committee on Economic, Social, and Cultural Rights (including the importance of access to land, credit, and income or other resources to realize the right). Windfuhr thus drew an implicit link between the right to food and a guaranteed minimum income for vulnerable groups in society. In addition to implications for governmental and intergovernmental policies, he pointed out the need for attention to the impact of multinational corporate decisions. The Voluntary Guidelines called for by the World Food Summit will provide guidance for all these varied actors, and the time is now ripe for NGO input into that document in advance of a more formal drafting conference in November 2002. He called for an even stronger Food & Agricultural Organization Code of Conduct (versus the contemplated Voluntary

Guidelines). The distinct poverty reduction papers he analogized more to a 'cookbook' informing practitioners how to proceed.

One of the afternoon's Working Groups gave input into these Voluntary Guidelines. Some of the elements noted as missing from the current draft were rights of specific groups like farmers, fishermen, and pastoralists; another missing element identified was an emphasis on local production to assure access to food. The other two Working Groups came up with recommendations to the Social Forum on Trade and Food Security, and Trade in Services and Human Rights. Many of these questions and recommendations¹⁵ were ultimately adopted in the Conclusions and Recommendations of the Social Forum, so NGOs can take heart that they had a significant influence on the process.

V. PROCEEDINGS OF THE SOCIAL FORUM¹⁶

As noted above, due to the delayed and contentious ECOSOC approval, the Social Forum did not actually open on Thursday, July 25, as planned, but only on Friday, July 26, 2002. This meant that another date had to be found for the second day of the event, which finally took place on Friday, August 2. A number of members of the Sub-Commission attended at various times. In what follows, I have not tried to comprehensively describe all the speeches and interactions, but have tried to capture the main speakers and ideas discussed.

1. Opening by High Commissioner

High Commissioner Mary Robinson opened the Social Forum to great applause, expressing high hopes that it will provide a forum within the U.N. for new voices and new ideas for dealing with social issues including extreme poverty and the impact of trade on minorities and other vulnerable groups, such as women, indigenous peoples, older people, refugees, people with disabilities, and those living with HIV/AIDS. She also announced the inaugural Social Forum's theme: extreme poverty and the right to food (both of which she traced to Universal Declaration Article 25's right to an adequate standard of living, which also informs the U.N. Millennium Summit key development goals of eradicating extreme poverty and hunger). The World Food Summit enhanced understanding of this right and the fact that it is not a question of food supply, as there is enough food in the world to feed the hungry, but a question of other issues blocking implementation of the right. These issues include inattention to women's rights, given the critical role women play both in economic development generally and in food issues in particular. Among other obstacles she listed were insufficient public and private investment, inadequate irrigation infrastructures, incomplete implementation of the Doha "development" trade round in agricultural matters,

15. See Annex III to *Report of the Chairman-Rapporteur, José Bengoa*, U.N. ESCOR, 54th Sess., Provisional Agenda Item 4, U.N. Doc. E/CN.4/Sub.2/2002/18, at 23.

16. This discussion draws on the author's notes of the proceedings as well as the *Report of the Chairman-Rapporteur, José Bengoa*, *id.*

insensitivity to the environment (which forms the essential context for food production), and an unethical globalization (which does not do enough to protect the poor and promote economic opportunities). She thus called on the Johannesburg World Summit for Sustainable Development, due to occur within a month, to address food security, and called on the Social Forum to provide new ideas and practical suggestions to implement the right to food.

2. Bengoa as Chair Welcomes NGO Input on Globalization and Human Rights

Mr. Bengoa, elected Chair of the Social Forum by acclamation, reiterated its purpose of serving as a human rights forum within the U.N. for the poor: those “on the receiving end of globalization”. He referenced some of the prior studies and work of Sub-Commission experts leading up to the event, including those by Mr. Asbjørn Eide (on income distribution) and Mr. Leandro Despouy (on extreme poverty). Then, noting the vital input of NGOs from the Preparatory Meeting, he invited their representatives to present the outcomes of their deliberations.

Peter Prove of the Congress of NGOs expressed gratification that the “baby had finally been born” and welcomed the U.N.’s decision to look critically at globalization’s impact on human rights, including not only civil and political but also economic, social, and cultural rights including the right to development. The efforts within ECOSOC by those states hostile to these latter rights to block the Social Forum were lamentable, but not surprising.

Mr. Bamrung Kayotha and Dr. Suthy Prasartset from the Thailand Assembly of the Poor elaborated on how, from their perspective, globalization and state development policies can actually hurt the people they are nominally supposed to help. The financial speculation from liberalization of capital controls resulted in the Asian crisis of 1997, which they view as having resulted in foreign capital taking over parts of their country through long leaseholds (up to 99 years) and large dam projects and waste treatment plants. Not having a longstanding interest in or connection to the localities affected, these foreign actors (multinational corporations and IFIs) have—without consulting those affected—removed and/or destroyed the land, forest, marine resources and damaged the environment of indigenous people, women, and the rural poor, violating their human rights in the process. Mr. Kayotha and Dr. Prasartset thus view the World Bank, and institutions like the Food and Agricultural Organization, as illegitimate, merely creating jobs for bureaucrats in the name of fighting poverty. It is unclear how Northern rhetoric about democracy and freedom will be reconciled with Southern rhetoric about technology and exploiting resources for growth. Mr. Kayotha and Dr. Prasartset hope the Social Forum will contribute to solving these problems. In reaction, Ms. Robinson stated that such experiences explain the negative perceptions of globalization, and agreed that the Social Forum should strive to understand the issues and what to do about them.

3. Incorporating Human Rights Law and Policy Into Economic Decisions

Peter Prove pointed out that the development of such economic policies (in

isolation from human rights policies) did not occur in a vacuum or as a result of historical accident, but had elements of conscious deliberation. He thus raised the question of how to promote coherence between economic and human rights law, and infuse economic globalization with human rights values including dignity, given the political unwillingness to do so. Though “nondiscrimination” is a touchstone of each body of law, it means very different things in each context, and these differences require more attention. “Good governance” should mean more than mere accession to major trade and economic treaties; it should mean implementation of human rights as well. Liberalization and privatization policies sometimes negatively affect important rights, including the rights to water, health, and education, as user fees and commercialization hinder access or encourage discriminatory, “two-tier” systems with lower quality cheaper or free systems. Agricultural subsidies in rich countries continue to hinder human-centered development elsewhere. Human rights should instead be made a “friend of development” in each country. To this end, quality analyses and worthwhile reports like those from the High Commissioner on aspects of globalization and human rights deserve support and further distribution, as do efforts like that of the Sub-Commission’s Working Group on Transnational Corporations to enhance corporate accountability.

Ms. Robinson agreed that economic and financial decision makers (e.g., those from trade ministries, the IMF, and the World Bank) need to understand and respect the legal commitments contained in treaties concerning economic, social, and cultural rights (like the Economic, Social and Cultural Covenant itself as well as the Convention on the Rights of the Child). She also agreed that nondiscrimination is a much narrower principle in the economic sphere, and that the Social Forum could encourage economic decision makers to adopt the broader, human rights principle of nondiscrimination.

UNRISD Director Thandika Mkandawire also endorsed a rights-centered approach, suggesting three basic criteria for evaluating globalization: does it favor democratization? Development? Social equity? These touchstones, he argued, should guide reform efforts. Democratic institutions furthering the right to food, for example, are not only called for by the Rome Declaration; they are mandated by human rights considerations. Autocrats can no longer violate some human rights on the grounds that they are providing food (the “full belly fix”). Yet the present reliance on less accountable international institutions for development is often anti-democratic. Mobilizing resources for national as well as international development policies is key. Finally, although social policies must meet macroeconomic constraints, macroeconomic policies should also be constrained by social equity, democratic, and development considerations.

4. Open Discussion: Rights and Goods/Needs

Mr. Bengoa then opened up the discussion. Some governments defended their development policies in predictable and self-justificatory terms that were not very enlightening. Understandably proud of Mr. Bengoa’s role as a catalyst to and Chair of the Social Forum, his home government Chile pointed out that civil and

political rights were not necessarily in opposition to economic, social, and cultural rights, but could form part of a virtuous circle. Overcoming the myth that globalization is uncontrollable would require persuasively distinguishing between the public goods at the heart of the latter sorts of rights, and the content of rights-based approaches. Mr. Mkandawire of UNRISD reiterated that globalization was a human construct as opposed to an unstoppable natural force, and resulted from the cumulative effect of many economic and financial decisions regarding market rules, property rights, and trade flows. Thus, changing the rules can create another form of globalization.

The Chilean representative noted that none of these rights should simply be subjected to the laws of the market and unhindered competition. Somewhat ironically, Cuba's representative focused on civil and political rights, pointing out that having economic resources to become literate, buy a TV or newspaper or to pay for an ad in the same are important prerequisites to civil and political rights. Mr. Mkandawire of UNRISD reiterated that the various types of rights are mutually constitutive.

The Thai representative, somewhat in response to the Thailand Assembly of the Poor, defended the good faith of its anti-poverty and development programs, arguing that attempts at participation, including public hearings prior to major projects, help to ensure effectiveness, transparency, and accountability. The representative, however, urged that developing countries still need special help. (The Assembly of the Poor representative later replied that the outcome of these hearings was pre-determined and that they were more for show than for genuine consultation with affected communities).

Peter Prove helpfully cautioned against thinking that the issues are reducible to a North-South conflict, as poor people exist and need help in both hemispheres. He urged the governmental representatives to bring their colleagues with economic and financial portfolios to the Social Forum, instead of relying on silos of human rights expertise for the Social Forum and economic expertise, e.g., for the IFI and economic treaty deliberations.

5. Right to Food and Poverty Reduction

Biotechnology and genetically modified (GM) foods came up at several points in the discussion, with NGO representative Pat Mooney taking the lead in making the point that biotechnology is not necessarily the panacea promised by its promoters, but that real risks are associated with some of the new technology, the public goods from which traditional farmers are excluded from on "intellectual property" grounds. He pointed to several studies showing that nutritional quality has actually declined with efforts toward biofortification of foodstuffs (e.g., apples and potatoes have declined as much as 50% in key nutrients): He cautioned against the growing corporate control of the traditional agricultural sector (seen in, e.g., increasing presence of GM maize in Mexico and Central America), and highlighted the expected marketing in 2003 or 2004 of patented "Terminator" seeds (that cannot be re-used by farmers after harvest) as examples of dangerous trends. The dystopian picture he paints is a world in which a billion and a half

people dependent on farmer-saved seeds would suddenly be at the mercy of multinational corporations. The government of Cuba later noted that not all biotechnology in agriculture is bad, pointing to its own use of some such technologies in increasing yields; but Cuba urged asking whether the particular use of technology in a given case is ethical, which seemed questionable in the case of the transgenic seeds creating dependencies and strengthening corporate monopolies.

Jean-Baptiste Anoman Oguié of ATD Quart Monde essentially repeated his presentation from the NGO Preparatory Event, providing through the prison project an illuminating example of self-help that can expand into other spheres through partnerships. Irma Yanni, of La Via Campesina peasants' organization, lamented small farmers losing their land and thus their way of life to large multinational corporations and landowners. Rights including the right to life, to determine their own way of farming (including their own culturally preferred way of growing food) and to associate with others, were among the many rights being violated. She too expressed concern regarding GM technologies and IFI's agricultural liberalization policies, and urged the international community to guarantee food sovereignty and take agriculture completely out of the WTO.

Mirian Masaquiza, of the National Confederation of Black and Indigenous Organizations in Ecuador, gave some impressive statistics on the persistence of poverty and inequality in the face of globalization, especially in Ecuador. There, she said, 80% of the rural populace and 50% of the urban populace are poor. The policy of pegging the currency to the dollar, and the tremendous external debt, has aggravated the situation. Like Ms. Yanni, Ms. Masaquiza advocated food sovereignty, which she sees as threatened by transnational corporations and neoliberal economic policies. She disfavored trade agreements, generalizing from NAFTA to conclude that they were all instances of U.S. aggression reinforcing powerful economic interests instead of including the vulnerable and the true public interest. The latter could include investment, but would be more focused against poverty.

Mr. Christophe Golay, assistant to the Special Rapporteur on the Right to Food Mr. Jean Ziegler, reiterated that the problem of implementing the right to food arose more from issues of food distribution than a lack of adequate production. The world today produced enough to feed roughly double its current population. He linked the issue to poverty, noting that if you do not have any money, you typically do not eat, and if you do not have enough money, you do not eat enough high-quality food. This in turn affects the right to education or the right to work in a vicious circle, since it is hard to work or study without adequate food. He pointed to the inequitable income structure in Brazil as an instance of the problem; there, 2% of the population has 56% of the wealth. The Brazilian Secretary of State for Social Affairs, Ms. Wanda Engel Andua, confirmed that economic growth alone was valuable, but insufficient to address the issue of extreme poverty, as revealed by Brazil's experience of persistent extreme poverty despite its economic growth. Niger, another country visited by the Special Rapporteur, is even worse. There, 4.2 million out of the country's populace of 11 million are hungry, with two thirds of the country being in absolute poverty. Both

the inhospitable climate and external conditions, like unsustainable debt levels and the legacy of misguided IMF policies, aggravate this situation.

Mr. Alfredo Sfeir-Younis of the World Bank welcomed the Social Forum as one receiving input from a broader variety of stakeholders. He expressed a wish, however, for a more meaningful, deeper, and sustained dialogue and debate than that allowed by the abbreviated structure of this first Social Forum, and also called for more empirical rigor in the discussions (pointing out some inaccuracies of some statements regarding the World Bank's role). He pointed out that there are no policies neutral to all groups (or else we would have no need for a Social Forum like this). The centrality of poverty and the importance of addressing it are now increasingly accepted. Poverty eradication has been included in the Millennium Development goals and by the Bretton Woods institutions including the World Bank. Other issues are more controversial (and he voiced some views at odds with those of many of the participants, but which were important to hear though they might not have been the most politically correct). Economics, though not a favorite topic of many NGOs, has an important and potentially positive role to play in globalization; non-economic policies can have negative effects. Some social equity policies, he noted, can violate human rights (especially universality principles). Representatives of the poor are telling the World Bank that it is not just food production but purchasing power which is a big issue for them. Lack of access to other resources – land, water, credit, inputs to agriculture like forests, fertilizer and seeds – is a huge contributor to hunger, especially for women (who do not receive the rights they are formally guaranteed). If there was one area to prioritize, it would be the need for a gender perspective. While a focus on rural food production is necessary, going beyond this to urban-rural linkages, and broader economic development and wealth creation in both areas, would also help, as would wider recognition (including poverty reduction strategies) of the right to food as a public good, versus a private good.

Mr. Sfeir-Younis argued for a new paradigm of inclusive empowerment that goes beyond current paradigms of economic growth or even sustainable development. He also pointed out the interrelationship between the subjects of discussion, between for example poverty and the creation of wealth, and between the right to food and the need for access to energy resources (to cook food), between patterns of consumption in the developed world (e.g., \$200B in alcohol consumed in rich countries) and low levels of overseas development assistance (e.g., \$8B in total agricultural assistance). Still, he stated that actually building political will for getting the priorities right, and for example establishing the primacy of human rights over economic law, or infusing economic law with human rights values, would be a profound social change. Mr. Sfeir-Younis suggested that the Social Forum should focus on these crucial issues of political will, and noted that these are collective action problems requiring collective solutions. On the other hand, however, he asserted that coherence between economic and human rights policies will have to take place at the country level, as he viewed it as unrealistic to expect such a change to take place at the international level. He mentioned that the World Bank is open to dialogue on these issues, urges considering the value for economic development of all the General

Comments to the Economic, Social, and Cultural Covenant, and has in fact held a seminar and had discussions with both NGO representatives and High Commissioner Robinson on some of these topics. However, Mr. Sfeir-Younis believes that organizations, like his own, without an explicit mandate to promote human rights must receive guidance from society at large as to preferred policy directions.

Michael Windfuhr of Food First Information and Action Network, responding to a couple of Mr. Sfeir-Younis's points, later stated that it is important not to play the game of which level has responsibility, as action is needed at all levels. Regarding "empowerment", he welcomed the rhetoric, but asked how often it occurs in reality. For example, the fisher folk affected by European Union policies generally are not participating in the negotiations affecting them; likewise, mining communities in Nigeria and other places have little input, though the World Bank supports such mining. We do need a new development model, but the World Bank itself has cut monies intended for rural development. To do so and say we are looking for the political will is problematic at best. What some see as protectionist, the poor and vulnerable often see as empowerment to continue their lives and to provide for their sustenance.

Windfuhr emphasized the role of information regarding rights and human rights education in empowerment. He also pointed out that many policies with negative impacts on the poor, e.g., privatization, are also vulnerable to challenge even on grounds of economic rationality. The policies of IFIs and other organizations should not have a negative impact on the right to food, including the quality of nutrition and food. The World Bank's market-based approach to land reform is one approach, but is not endorsed by, e.g., his organization (Food First), Via Campesina, or others. Overall, Windfuhr reiterated the importance of a rights-based approach. After all, he says, who would argue that some measure of torture is allowed if national security requires it?¹⁷ Windfuhr clarified that if the rights are violated, for example on utilitarian grounds, then the victims should be compensated – a position he views as required under the law to the maximum extent of available resources. Finally, he noted the importance of creating early warning and action systems, not only for famines, but also for war and other conflicts that impact the right to food.

Mr. Asbjørn Eide of the Sub-Commission also urged the increased democratic participation of real people, as opposed to faceless international institutions. He welcomed the World Bank's new introspection on these issues, and noted the increased criticism of traditional approaches from World Bank elites (like former World Bank Chief Economist and Nobel laureate Joseph Stiglitz). The problem all too often is that people are becoming impoverished in the very process of attempting ongoing economic development, often with a "generational trap" of an underfed woman giving birth to an underfed child who is unable to learn and will

17. He is apparently unfamiliar with the arguments of Harvard Law Professor Alan Dershowitz and others, who have called for "torture warrants" from judges when national security is threatened. They argue that is the best way, e.g., in a "ticking bomb" situation, to get the information. *See* ALAN M. DERSHOWITZ, *SHOUTING FIRE: CIVIL LIBERTIES IN A TURBULENT AGE* 470 (2002).

continue to be poor in the next generation. Mr. Eide called for more attention not only to the challenge of poverty reduction, but also to stopping the active impoverishment of people which is so often rationalized as necessary on utilitarian grounds although it violates their rights. Discrimination against various groups (women, the indigenous, lower-caste groups), including within the household, also plays a tremendously negative role in this regard. National strategies to approach implementation and overcome such discrimination, with benchmarks toward progressive realization, are important means of addressing the issues.

The interrelationship of civil and political with economic, social, and cultural rights was also highlighted by examples of the justiciability of economic, social, and cultural rights from South Africa and India. Ms. Charlotte McClain of the South African Commission on Human Rights described how a vulnerable community living in squalid conditions outside Capetown was evicted, but received a court order from the highest court in South Africa (the Constitutional Court) holding the eviction unlawful¹⁸ and providing that the homeless parents and children must be given the right to housing, as provided in the South African Constitution. Similarly, Ms. Aparna Bhat described a surprisingly successful case she brought before the Indian Supreme Court¹⁹ which resulted in an order enforcing the international human right to food by ordering the central government to provide resources to the state government, thereby enabling the right to be implemented. Continuing issues include ceilings on those able to take advantage of the right, but the judicial recognition of the right is an important achievement.

In addition to access to the courts, Mr. Raj Kumar of Pax Romana also emphasized the relevance of other civil and political rights, especially the right to information (highlighted in Rio Principle 10), to the implementation of economic rights like the right to food and the fight against poverty. Calling for greater involvement of civil society in constructing the poverty reduction strategy papers, he said that "human rights is the grammar of the dialogue", and lamented the fact that key organizations like the United Nations Development Program were not receptive to human rights language at the Bali preparatory conference for the Johannesburg World Summit for Sustainable Development. Sub-Commission member Florizelle O'Connor from Jamaica also endorsed a holistic approach to human rights, viewing the right to food as being as fundamental a right as civil and political rights. She also endorsed the cultural right to continue with organic farming, if desired, instead of being forced to use chemical fertilizers at potentially high nutritional cost.

18. Republic of South Africa v. Grootboom and Others, Case No CCT 11/00 (Con. Ct. S. Africa, Oct. 4., 2000), *available at* <http://www.concourt.gov.za/judgments/2000/grootboom1.pdf> (last visited Jan. 17, 2002).

19. People's Union for Civil Liberties v. Union of India and Ors, Civil Petition No. 196 of 2001 (Sup. Ct. of India, Nov. 28, 2001), *available at* <http://www.geocities.com/righttofood/orders/nov28.html> (last visited Jan. 17, 2003).

6. Discussion of Draft Conclusions and Recommendations

The second day of the Social Forum, which took place on August 2, 2002 (a week after the first day), focused on discussion of draft conclusions and recommendations which Mr. Bengoa had prepared after the first day. Mr. Bengoa explained that after the day's discussion, the ten members of the Sub-Commission would discuss and finalize the document in private for the Sub-Commission's consideration and adoption.

Many suggestions to strengthen the draft document and correct some errors ensued. Ms. Terao, an alternative Sub-Commission member from Japan, made the positive suggestion that the Social Forum concentrate on what was new in globalization, which she noted had both positive and negative effects. She noted the persistent problem arising from excessively narrow circles of social concern – in which problems of our immediate neighbors receive our attention, but those across oceans do not. Sub-Commission member Abdel Sattar, from Pakistan, noted the links between bad governance, corruption, and inefficient or useless projects (selected for their potential for kickbacks rather than for the public good). He called for an international regime to return to developing countries the wealth illicitly stashed away in developed country banks and tax havens, which he argued would make a real contribution to poverty reduction in developing countries.

Other comments were not as helpful as these, and one was left wondering whether commenting on the draft document represented the best use of time of those gathered. Mr. Eide made the useful comment that the globalization most people found objectionable (as creating losers as well as winners) was economic globalization; he also urged the Social Forum not to lose sight of the particulars, but to focus on what happens to specific human beings who are otherwise lost in the process of globalization.

7. Conclusions of the Social Forum

The Social Forum affirmed its mandate as described above,²⁰ emphasizing not only the ultimate objective to share “knowledge and experiences” through an interactive dialogue, but also “to suggest appropriate intervention by the concerned stakeholders” and to contribute to major international conferences and collaborate with other forums, like the Permanent Forum on Indigenous Issues.²¹ Among the other major conclusions of the Social Forum were the following²²:

a. Globalization and Human Rights

- Economic globalization is human controlled and economic law and policy should accord with human rights law and values.

20. See *supra* notes 8 and 9 and accompanying text.

21. *Report of the Chairman-Rapporteur, José Bengoa, supra* note 15, at 14, ¶ 51.

22. *Id.* at 15 ¶¶ 52-69.

- Unregulated globalization produces losers as well as winners, so measures must be taken to safeguard the rights of those who may become poor or marginalized.
- Instead of taking into account poor, women, or indigenous peoples, globalization often takes away their resources, thus violating their rights.
- Liberalization of trade in services may negatively affect human rights, including nondiscriminatory access to education, health, and water.
- Liberalization of trade in agriculture may also have negative effects, including increasing food import bills, declining local production, undermining small farms and labor, and narrowing development options.
- Women in particular are negatively affected, requiring a rights-based gender perspective in economic policies.
- “Non-discrimination” in human rights and economic/trade law sound the same, but have different meanings needing clarification, as equal rules for unequal players may institutionalize discrimination against the weak and violate human rights when what’s needed is affirmative action for the most vulnerable to ensure consistency with international human rights law.

b. The Right to Food and Poverty Reduction

- Poverty reduction strategies require both preventing impoverishment and urgently bringing the poor out of poverty.
- It is thus important to identify the poor, their locations, and the causes of poverty (as in the background paper “Who Are the Poor?”).
- The nondiscriminatory participation and empowerment of the poor in a rights-based approach to development is of central importance.
- Poverty is not only a cause, but also an effect of hunger and malnutrition – affecting the ability of individuals to escape poverty in what often becomes an inter-generational poverty trap.
- Respect for social, cultural, and traditional ways of gathering food, and the spiritual as well as the physical well being of affected peoples including the indigenous should be considered.
- All stakeholders should contribute to the World Food Summit’s Intergovernmental Working Group on voluntary guidelines for the right to food, with the ultimate purpose being to reflect nutritional well-being, and noting the NGO suggestions made at the Social Forum.
- The Social Forum urges more consistency by states regarding

positions taken at various human rights and development forums.

- General Comment 12 of the Committee on Economic, Social, and Cultural Rights authoritatively interprets the right to food and how to achieve it, including the need for states to adopt an accountable, participatory, and transparent national strategy, identification of resources, framework legislation, benchmarks, and policies for implementation.
- Justiciability of economic, social, and cultural rights was illustrated by the South African and Indian cases; an independent judiciary, independent human rights commissions, and a vibrant civil society will strengthen these positive trends.

8. Recommendations of the Social Forum

The main Recommendations of the Social Forum were as follows²³:

a. Proposed Themes for 2003

The themes recommended for 2003 focused on the rural poor, i.e.,: (i) rural poverty and rural poor communities, including the rights of landless peasants' movements, pastoralists, and fishermen; (ii) the right to education in rural communities, including the importance of capacity-building and training; (iii) corruption and its impact on the rural poor; and (iv) the role of international cooperation in peasant agriculture and rural communities.

b. Poverty Reduction and the Right to Food

The main recommendations of the Social Forum after considering the issues pertaining to poverty reduction and the right to food were divided into national and international aspects.

At the national level, the Social Forum recommended that:

- States should adopt a national strategy on the right to food in accordance with General Comment 12, and also should take into consideration other General Comments including 13 (right to education) and 14 (right to health).
- States also should conform to the human rights principles of nondiscrimination, accountability, transparency, and participation by undertaking the following:
 - Establish early warning systems regarding threats to livelihood due to environmental degradation, production changes, or market instability;
 - Establish buffers to mitigate shocks and facilitate early

23. *Report of the Chairman-Rapporteur, José Bengoa, supra* note 15, at ¶¶ 70-80.

recovery;

- Avoid discrimination in giving support to farming communities, and consider affirmative action if necessary;
- Avoid discrimination against women in particular, by giving full access to resources (land, credit, natural resources, technology, and the right of all pregnant and breastfeeding mothers to food and health care);
- Protect rights of tenant farmers and promote effective land reform and indigenous peoples' right to land;
- Facilitate market access for small farmers;
- Protect the rights of landless agricultural workers, including the right to organize and unionize;
- Ensure conformity of private business activities with the progressive realization of the right to food;
- Assist HIV/AIDS-affected communities.

At the international level, the Social Forum recommended that:

- International organizations, especially the IFIs, should incorporate human rights norms, including the right to food, into their work, activities and value systems with due respect to their respective mandates;
- States should give more emphasis in national poverty reduction strategies to the right to food and the urgent need for more institutionalized participation by stakeholders including representatives of the poor and civil society organizations;
- The High Commissioner for Human Rights' Guidelines to incorporate human rights concerns into poverty reduction strategies should be field-tested as soon as possible;
- Actions that reflect the interrelationship between human rights, for example the right to food and the right to health, education and other rights, should be undertaken on a priority basis for women and young children;
- The High Commissioner for Human Rights' reports on intellectual property, agriculture, and trade in services should all be formally transmitted to the WTO General Council and the relevant WTO committees and Director General;
- Human rights principles including nondiscrimination support targeted and enforceable differential treatment and affirmative action for developing countries, as opposed to mere 'best endeavor' commitments for such treatment;
- States should take steps (in existing as well as further international agreements and overseas aid) to facilitate access to food and respect for enjoyment of the right to food in *other* countries as well as their

own;

- Public funds should be made available through international cooperation to strengthen agricultural research aimed at improving productivity of small and marginal farmers.

VI. EVALUATION OF THE SOCIAL FORUM

It must be admitted that not all the high hopes for the first Social Forum were achieved. This was in part attributable to the disrupting delay, but in part to the planning for the event. Whether because of a preference for a relatively flexible and “free” space for debate, or because of inadequate attention, the event could have been planned to ensure more effective and higher quality debate, participation, and outcomes. The comments of some governments (mainly from the North) that the Social Forum did not hear the views of any poor people were clearly inaccurate and unfair. But the nagging question of whether and how to enhance quality remains.

The ultimate value of the Social Forum, if it continues its evolution into an effective body, would consist largely in informing the decisions of those shaping globalization with alternative perspectives relevant to concerns of the world’s poor and vulnerable groups. The importance of such alternative perspectives is not sufficiently appreciated. With the fallout from IMF decisions now widely recognized as contributing to recurring financial crises in Asia, Russia, and Latin America, and from corporate scandals similarly focused on the agenda of a small elite, the importance of taking broader and longer-term views into account in decision-making cannot be so easily ignored. Whenever a system develops into orthodoxy, as happened at the IMF and at now-failed corporations like Enron or WorldCom, the quality of decisions suffers because it does not adequately consider the full impact of those decisions on the ground. The shared goals of the U.N. system and the Social Forum (promoting peace, stability, and human rights, and eradicating poverty) would be better served by more democratic and participatory input from affected groups of society, especially those most adversely affected. Such views may be likened to early warning signals of stressed or weakened points in the system, which if not properly processed by the system will erupt in flawed or negative output. Decisional quality will thus be enhanced with broader input from affected constituencies, allowing more comprehensive and accurate assessment of risk and reward, of cost and benefit. In short, receiving views from those constituencies will nurture a systemic strength that comes not from rigid orthodoxy, but from resilience.

VII. RECOMMENDATIONS FOR FUTURE SOCIAL FORUM SESSIONS

1. Procedural Matters

As stated in the Minnesota Advocates for Human Rights intervention at this year’s Sub-Commission: the organizers of the Social Forum should “think boldly about new structures and new approaches to conducting its meetings – and not drift

into the same-old, customary modalities for holding UN-based human rights meetings.”²⁴

a. Participants

If the major purpose of the Social Forum is to give a voice to the voiceless,²⁵ then major attention should be given to ensuring the participation of such actors. Many of the participants in the first Social Forum were, frankly, the same old Geneva-based nongovernmental organizations and actors who participate in other U.N. meetings. Not that they should be excluded, but examples of truly new voices were so rare as to be almost nonexistent. A fair and objective process of consultative outreach should be established, leading in cases of demonstrated financial need to financial support and participation of representative actors from unrepresented or underrepresented perspectives.

b. Documentation

While the inaugural Social Forum included some excellent background materials²⁶, a more systematic approach to making such materials available would be preferable. Each topic could be accompanied by a packet of basic, key documentary materials (including a bibliography of common resources and websites on the topic). Such materials would encourage common understandings and usefully focus the debate. Since by its nature the Social Forum is delving into new, cross-sectoral topics, the normal information sources may miss some of the more valuable resources on the topic, making such documentary materials even more valuable to the participants.

Mr. Sfeir-Younis of the World Bank was correct to yearn for a structure in which deeper and more sustained dialogue about these issues could take place. Availability and greater use of such formal preparatory documents setting forth positions and data in advance of the meeting would help in this regard. The participants could then review these prior to the meeting, narrow the issues in dispute, and perhaps even refer open factual issues to other bodies to make the actual meeting more productive.

While greater availability of such documentation on the Internet is a positive trend that should be encouraged, the reality of continued limited access of most poor people to the Internet means that other innovative methods for including the poor in documentary dialogue should also be considered. A repeated and important theme of the inaugural Social Forum was the vital importance to the

24. Press Release, Statement of the Minnesota Advocates for Human Rights, Item 4: Economic, Social & Cultural Rights: Comments on the Social Forum (Aug. 6, 2002) (on file with author).

25. “[T]he Social Forum seeks to give special voice to new actors, including the poor and the marginalized and their organizations, which have no space within the United Nations system.” *Report of the Chairman-Rapporteur, José Bengoa, supra* note 15, at 14 ¶ 50.

26. *See, e.g.*, the partial list of documents made available to participants in *Report of the Chairman-Rapporteur, José Bengoa, supra* note 15, Annex I, at 20.

poor of information regarding their rights, and much more strenuous efforts to enhance such access to information are required.

c. Preparation

During the discussions on the second day, Sub-Commission member Ms. O'Connor made the good point that if the Social Forum is to be truly innovative and useful, participants will have to do a better job of preparing presentations that reveal the disconnect between the current international approaches and the actual needs of villagers and the poor and vulnerable on the ground. She recommended, for example, that an NGO from her region ideally would be familiar with World Bank research and activities in the region, analyze the progress or lack thereof made in local development of the affected community, and come prepared to discuss ideas for improvement in actually meeting local needs. As she said:

I really challenge the NGOs that are here. Go back to your areas. Don't just look at the UN treaties. Relate those to the day-to-day lives of the people. Come back next year with best practices, worst practices, with words, ideas, with solid stuff. That will allow all of us to come back with concrete ideas. To make dignity a reality for more people all over the world.

d. Speakers

Mr. Bengoa and others commented on the usefulness to the Social Forum of having a variety of speakers offering views not otherwise frequently heard within the U.N. system. He appealed at the end of the Social Forum for a greater number of governmental representatives, particularly those with social development portfolios, to attend. It must be said, however, that the representatives of governments who spoke inevitably had the least to say, usually repeating widely known facts or dispensing state propaganda. Since the Social Forum is intended to give a voice to those who do not have one elsewhere in the U.N. system, an even more limited role for states (unless they have truly value added content or original ideas to offer) would be preferable. On the other hand, the tendency of U.N. forums toward ideological and sometimes misinformed rhetoric would make it helpful, as several speakers including from the World Bank properly suggested, to have a greater number of true experts available to inform the discussions. In an intervention at the Sub-Commission, Minnesota Advocates for Human Rights suggested:

For example, on some of the important technical subjects affecting this field, perhaps a brief point-counterpoint debate could be held between recognized experts on different sides of these issues. If informed in advance, NGO's and their advisors could anticipate and prepare counterpoints to the views of experts. This could be particularly beneficial in challenging with facts the views of the IFIs (the World Bank, IMF, and WTO) who in some cases continue to adhere to discredited

free-market economic orthodoxies that have not served the needs of the poor.²⁷

The stature of the Social Forum should enable it to attract the world's best experts on various subjects. Amartya Sen or Joseph Stiglitz could debate Milton Friedman on the causes and best approaches to solve world poverty, informed by concrete testimony from actual poor people who have experienced the results of IMF policies on the ground. In addition, the voice of the World Bank offered an interesting and valuable counterpoint to some of the other voices heard, and it and the other IFIs should be encouraged to play a continuing role if they are to be part of the solutions. The same could be said for multinational businesses. While the antipathy toward the corporate sector and economic globalization in general among some of the speakers might make this seem unattractive, the shift of power to businesses and other non-state actors means that they have greater responsibilities. It would thus be wise to include their perspectives to further discussion and mutual understanding and, again, make them part of the solution rather than part of the problem. The participation of both "international financial and economic institutions and development agencies" as well as "private sector entities" is thus rightly contemplated in the Social Forum's conclusions²⁸.

e. Using New Information Technologies

Creative ways of interacting with participants should be considered, including simultaneous web-casts, video-conferencing, and (as Minnesota Advocates, again, suggested) "[p]erhaps idea-posters, audiotapes, and other alternative and/or culturally-rich communicative approaches to expressing . . . ideas and concerns."²⁹

In some countries in poor regions, ranging from the savannahs of Africa to the jungles of Peru, the internet is increasingly used by farmers and vulnerable populations to "bridge the digital divide" and use information technologies to educate, inform, and empower people. A major problem in such initiatives is access to energy, as many of the poorest villages and regions do not have access to reliable electricity. But for those who do, these new technologies can provide information on more efficient irrigation, fertilizer, or soil replenishment techniques, weather conditions, conservation methods, market and transport conditions that can be useful both for rural and urban populations. During the first day of the Social Forum, the government of Mexico suggested that perhaps the best practices emerging from the Social Forum could be posted on the web to leverage the lessons for the benefit of those unable to attend the event. While the benefits of Internet communication will remain limited so long as access remains limited, those benefits should be shared with those with access to such methods. The Internet could also be a way of broadening the dialogue of the Social Forum to other parties, and to extend it throughout the year, through chat room and moderated or unmoderated discussion fora and listserves.

27. Press Release, Statement of the Minnesota Advocates for Human Rights, *supra* note 24.

28. See *Report of the Chairman-Rapporteur, José Bengoa*, *supra* note 15, at 14 ¶ 50.

29. Press Release, Statement of the Minnesota Advocates for Human Rights, *supra* note 24.

f. Interactive Methods

Since the Social Forum has also been conceived, from the outset, as a forum to build bridges between actors who do not normally talk to each other, ways of enhancing interactivity should be seriously considered.

One specific innovation used to good effect at the World Summit for Sustainable Development in Johannesburg in September of 2002 was the inclusion of various interactive dialogues between and among representatives of 'major groups' established over the years since the Rio Earth Summit a decade ago. The discussion between and among these groups was moderated by the Secretary General's Special Envoy, Jan Pronk (the former Development Minister of the Netherlands).³⁰ While much of the power of the resulting discussions came by virtue of the forceful personality and knowledge of Mr. Pronk, the existence of truly interactive dialogues within the U.N. system was both a refreshing change from the staid and self-justifying rhetoric so often prevalent, and a genuinely original means of advancing substantive ideas in difficult areas. Mr. Pronk, in the manner of a strong television talk show host, would challenge indefensible statements by representatives of civil society or business, or ask one U.N. agency why they have not been cooperating with another agency with whom they shared the podium.³¹ Such well-informed moderators are rare indeed, and it takes a bit of faith that they will guide the discussion in fair and profitable directions. But when it works, it results in new insights and shared understandings and would be well suited to addressing the issues confronted by the Social Forum. In fact, his familiarity with the issues and his obvious skills would make Mr. Pronk an ideal candidate to assist the Social Forum in some of its deliberations, if he could be persuaded to do so.

Another interactive means that was suggested by Minnesota Advocates for Human Rights was "impromptu, show-of-hand type straw votes on issues that arise during the session," and this could also be valuable in some instances.³²

Still another creative suggestion from Minnesota Advocates is to literally promote interactivity by making networking opportunities available to participants either at dedicated breaks for that purpose, or informal receptions to do the same. Circulating a voluntary contact list to facilitate contact during and after the Social Forum, published and available before the last session, would be another means to this end. Such emphasis on interactivity could help fulfill the vision of the Social Forum as "the ultimate networking forum – connecting different actors and institutions together, to integrate their policies, inform each other's views, and incorporate human rights concerns into the social and development policy making & programmatic functions in the UN and other institutions."³³

30. See *Generally* Johannesburg Summit 2002, Media Info.: Profiles, at http://www.johannesburgsummit.org/html/media_info/profile_jpronk.html (last visited Jan. 29, 2003).

31. Speaking Points of WSSD Special Envoy Mr. Jan Pronk, 08 February 2002, at <http://www.teriin.org/dsds2002/day1/pronk> (last visited Jan. 29, 2003).

32. Press Release, Statement of the Minnesota Advocates for Human Rights, *supra* note 24.

33. *Id.*

g. Guiding the Discussion

Discussion could also be enhanced with an understanding, and perhaps vigorous action from the Chair or a moderator, against mere, fruitless repetition of points made by previous speakers. In the first Social Forum, there was far too much repetition of this sort, often for political reasons or simple grandstanding. Future meetings of the Social Forum could break the mold of U.N. meetings by more rigorously avoiding such traps, and focusing discussion on isolating and resolving the most intractable issues.

h. Punctuality

It should be unnecessary to recommend that the sessions begin on time, but unfortunately the meetings of the Social Forum in its inaugural year routinely began late, making this recommendation worthwhile. One would think that punctuality would have been seen as especially important given the delayed start of the Social Forum, and the consequent disruption and diminished participation in the proceedings. But, instead, tardiness was in fashion, in the worst tradition of U.N. meetings. Future meetings of the Social Forum would be more productive and respectful of the many participants traveling from distant lands if they would start on time.

i. Relationship with Other Bodies

It would also be worthwhile if the Social Forum could formally refer inquiries to other bodies of the U.N. system, or even outside of the U.N. system, for productive follow up on the issues discussed. Also, it is within the Social Forum's mandate "to propose standards and initiatives of a juridical nature, guidelines and other recommendations for consideration by the Commission on Human Rights, the working groups on the right to development, the Committee on Economic, Social and Cultural Rights, the specialized agencies and other organs of the United Nations system." Thus, it should cultivate capabilities, resources, and approaches that will enable it to do this in a high-quality fashion.

Among the many ways this could happen is for the Chair of the Social Forum and the ten Sub-Commission members formally attending the Social Forum to act as spokespeople for the Social Forum's recommendations, to the treaty bodies, international conferences, both formal and informal meetings of other international bodies, and other forums.

j. Organizational Structure

Although this is a delicate matter, since too much structure could defeat the informal and creative exchange that marked the first Social Forum and should be preserved in the future, Mr. Bengoa and others correctly stated at several points that more organization could serve the purposes of the Forum. The search continues for the correct balance between more formal panels and debates between experts, and less formal interactive dialogues.

2. *Substantive Matters*

a. Topics

In selecting the topics of the Social Forum, more thought should be given to whether the issue is being adequately addressed in other fora, or whether the unique “competitive advantage” envisioned for the Social Forum will be able to make an original and value-added contribution to discussion and moving toward a resolution of the problem. It is important that the Social Forum not become just another U.N. talking shop. To this end, Ms. O’Connor’s comments above about the value of preparation also have a substantive point. As stated in the Conclusions of Mr. Bengoa’s report, “[t]he dialogue that takes place in the Social Forum must be based on the expressed concerns of those who experience the reality of social, economic, and cultural vulnerability.”³⁴

From this perspective, the topics of the first Social Forum – globalization and human rights, and poverty and the right to food – were appropriate. Future topics should similarly focus on the most important global problems affecting vulnerable populations, many of which similarly relate to subsistence rights and severe situations. In addition to the right to food, the rights to water, health, education, and housing all come to mind as urgent topics. The focus in 2003 on rural poverty should provide useful insights, but the major problems pertaining to sustainable urbanization are also becoming acute. Thus, I would advocate an approach of selecting a specific right for each of the next few years, using discussion of that right as a prism to shed light on the interrelationship with other rights in the many varied contexts in which issues arise. I agree with those at the Social Forum who noted that certain issues, like the impact of globalization, are likely to remain cross-cutting underlying themes for the foreseeable future.

b. Metrics

Since the Social Forum’s focus is on economic, social, and cultural rights, and since these are recognized as progressively attainable within national resources, it would be worthwhile for the Social Forum to adopt and use social metrics showing the status of achievement of the relevant rights. Some of the existing metrics would be of great use in this regard, for example the UNDP’s Human Development Index. But it would be worthwhile for the Social Forum to devote some time to examining the appropriateness of the UNDP or other indices for measuring human rights achievements, considering modifications that might be appropriate and adopting and using uniform measures to evaluate national progress on a regular basis. In an intervention at the Sub-Commission this year, Minnesota Advocates for Human Rights suggested that this topic of metrics was so important that the Social Forum could even devote all or part of its proceedings one year to the topic, e.g., reviewing ways in which nations could measure and address issues

34. *Report of the Chairman-Rapporteur, José Bengoa, supra* note 15, at 14 ¶ 50.

pertaining to child mortality. Of course, such metrics could also be used to follow up and evaluate the effect that the Social Forum and other activities and efforts have on the underlying issues.³⁵

VIII. CONCLUSION

In conclusion, the first-ever U.N. Social Forum offers a potentially important, if currently immature and unproven, forum for injecting much-needed critical thinking and imagination into the discussion of how to resolve some of the world's most pressing and difficult issues. For the effort to be successful, the Social Forum must avoid capture by traditional special interests, on one hand, while seeking out and giving a voice to unrepresented vulnerable interests, on the other. With proper discipline and creativity, however, the effort could prove worthwhile indeed.

35. Press Release, Statement of the Minnesota Advocates for Human Rights, *supra* note 24.