

The law as crowbar for the eradication of poverty

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Abstract

The UN Millenium Declaration states that poverty will be eradicated in the foreseeable future. To achieve this goal the article urges the international community to claim for the liability of multinational companies and western countries on the basis of both national tort law and international law. As poverty belongs to the legal realm of human rights, it is possible to attain its eradication by means of legal mechanisms at national jurisdictions.

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*“Dreimal solltest du fragen,
dreimal stand ich dir frei:
nach eitlen Fernen
forchest du;
doch was zunächst dir sich fand,
was dir nützt, fiel dir nicht ein”¹*

1. The state of the world at the dawn of the 21st century

At the dawn of the 21st century we live in a wicked world. The interrelated challenges of global climate change, deterioration of the environment and poverty deserve our immediate attention². We must start to take them seriously. This contribution concentrates on the eradication of poverty, thus ignoring the interrelation with the other two critical issues³.

1.2 billion people live on less than \$ 1 a day; in Africa hundreds of millions even on less than 0.60 \$⁴. 800 million suffer from malnutrition. Every day 24.000 people die because they are too poor to stay alive⁵; 8 million children die every year because of poverty; 100 million live in the streets (SANÉ, 2005, p. 2). About 3 billion earn less than \$ 2 a day (VIZARD, 2006, p. 3); the figure might well be considerably higher by 2015 (RISCHARD, 2002, ch. 10). \$ 2 a day also is the amount of the average European subsidy per cow, whereas the US spends \$ 4 billion on cotton subsidies to 25.000 well-off farmers, thus bringing misery to ten million African farmers⁶. The developed countries spend \$ 360 billion (!) every year subsidising their own agriculture (RISCHARD, 2002, ch. 13).

The disparity is growing, within and between the countries (RISCHARD, 2002, ch. 5). In Latin America – a relatively rich continent – 43.4% of the population and 64% of the rural population lives below the poverty line⁷. A large number of the poor is caught in the poverty trap (RISCHARD, 2002, pp. 19 and 56).

30 rich countries consume 85% of the world’s goods and services (RISCHARD, 2002, ch. 2). The – as Salazar puts it – “worth” of Wal-Mart is more than that of 161 countries in the world, whereas fifty-two multi-national companies compose one hundred of the largest economies in the world (SALAZAR, 2004, p. 113).

¹ Wanderer, in Richard Wagner’s, Siegfried, first act.

² See more generally about the threats the world is facing RISCHARD (2002), the UN Secretary General’s Report In larger Freedom: towards development, security and human rights for all (March 2005) and the yearly reports of the World Watch Institute, The State of the World.

³ See about global climate change JAAP SPIER, “Legal aspects of global climate change and sustainable development”, *InDret 2/2006* (www.indret.com).

⁴ RISCHARD (2002).

⁵ SACHS (2005, p. 1); UN bulletin on the eradication of poverty 2003 no. 10 p. 4.

⁶ UN bulletin, o.c. p. 4-5.

⁷ UN bulletin, o.c. p. 13; IFAD Regional Strategy Paper, Latin America and the Caribbean, 2002, p. 3; see for more figures SACHS (2005, p. 22).

Between 1980 and 2002 the 40 poorest countries in the world had a combined growth rate of zero. As Brank Milanovic put it, for these countries the promised benefits of globalization never arrived:

“The vaunted Washington consensus policies brought no improvement for the masses, but rather a deterioration in the living conditions as key social services became privatized and more costly as was the case, for example, with water privatizations in Cochabamba, Bolivia, and Trinidad, electricity privatization in Argentina and Chad. They were often taken over by foreigners, and add insult to injury (...) For many people in Latin America and Africa, globalization appeared a new, more attractive label put on the old imperialism, or worse as a form of re-colonization.”⁸

2. The UN Millennium Declaration

Prima facie the UN Millennium Declaration – solemnly reaffirmed by the UN General Assembly in 2005⁹ – sounds promising: poverty is going to be eradicated in the foreseeable future¹⁰. The heads of States and Governments “reaffirm” their faith in a just world. Upholding the principles of human dignity, equality and equity on a global scale, is called “a collective responsibility”. “Certain fundamental values” are said to be essential; among them: freedom (the right to live free from hunger and in dignity), equality (no individual or nation must be denied the right to benefit from development) and solidarity (*inter alia* based on principles of equity and social justice). The respect for the rule of law in international and national affairs must be strengthened. “No effort” will be spared to free people “from the abject and dehumanizing conditions of extreme poverty”. The Declaration continues with a promise that the debt problems will be dealt with “comprehensively and effectively”. By 2015 “the proportion of people who suffer from hunger” will be halved; the same goes for “people who are unable to reach or to afford safe drinking water”, whereas “children everywhere (..) will be able to complete a full course of primary schooling”¹¹.

Developed countries have pledged on various occasions their commitment to pay 0.7% of their GNP to developing countries¹². These amounts are bitterly needed. The amounts most low-income countries and nearly all least developed countries can raise will fall far short of what is needed to reach the Millennium Development Goals (MDGs). The investment costs for the MDGs alone in a “typical low-income country” will be roughly \$ 75 per capita in 2006, rising to \$ 140 in 2015 (in constant dollar terms). These small sums are equivalent to one third to one half of their annual per capita incomes¹³.

⁸ Why Globalization Is in Trouble – Part II, 31 August 2006, Yale Global on Line.

⁹ 2005 World Summit Outcome § I.3 and II.17.

¹⁰ See also ch.III of the Earth Charter, mentioning, *inter alia*, the right to potable water, clean air, food security, uncontaminated soil, safe sanitation, education, sustainable livelihood, social security and an equitable distribution of the wealth of nations.

¹¹ §§ 1, 2, 5, 6, 9, 11, 16 and 19.

¹² See for further details SACHS (2005, p. 338); 2005 World Summit Outcome, o.c. § 23.b.

¹³ In larger freedom, o.c. § 47.

The MDGs primarily set vague aspirations; they hardly express operational targets (SACHS, 2005, p. 271). There is not much reason to believe that concrete steps are going to be taken, let alone in the short term¹⁴. For the time being the goals are far from being met. Sub-Saharan Africa only gets \$ 30 per person. \$ 5 is spent on consultants from the donor countries, \$ 3 for food and other emergency aid; \$ 4 for debt servicing and \$ 5 for debt relief operations. The remainder went to Africa (SACHS, 2005, p. 310).

Not because the means are unavailable. They are. Huge amounts are spent on the military, whereas only a small portion thereof would suffice to eradicate poverty. Besides, the world at large (the rich countries included) would be much better off. After all, societies that are destabilized with extreme poverty become havens of unrest, violence and even global terrorism (SACHS, 2005, p. 332; RISCHARD, 2002, ch. 13).

The 0.7 of GNP already committed is enough to eradicate poverty (SACHS, 2005, p. 288; RISCHARD, 2002, ch. 13). Moreover, the amounts required are small if one bears in mind that only the US top four hundred taxpayers had a combined income of \$ 69 billion, almost three times the combined national income of Botswana, Nigeria, Senegal and Uganda (SACHS, 2005, p. 305). Clearly, the “bank of international justice is not bankrupt” (SACHS, 2005, p. 364).

3. Issues to be tackled

Legal aspects of poverty are an immensely broad topic. It stretches far beyond the limits of a contribution to a *Liber Amicorum* to go into any detail. Hereinafter I will confine myself to five issues:

- a very general overview (§ 4)
- debts (§ 5)
- flow of the wealth of developing countries to safe havens in the western world (§ 6)
- willful misconduct by private companies and national states (§ 7)
- historical wrongs (§ 8).

Other topics also urgently need to be addressed from a legal angle. This is true, e.g. for child labor, extremely poor working conditions (in a sense modern slavery) (SACHS, 2005, p. 11), education, health (including access to medicines), trade barriers¹⁵, increased morbidity and mortality from illness, homelessness, inadequate housing, unsafe environments, social discrimination and exclusion¹⁶. To some extent, they are the price the poor countries pay for globalization which has come a full circle, as Sunita Narain puts it. It was intensified twenty years ago or so, with the rich

¹⁴ G8 “will never champion the end of poverty if the poor themselves are silent” (SACHS, 2005, p. 365).

¹⁵ The ILA 2006-report on International Trade Law points to the role of human rights in this area: § 42 ff. The issue was mentioned in the G8-documentation, St. Petersburg July 2006. It appeared, only a few weeks later, that the Petersburg call “for concerted effort” to conclude the Doha-Round (Trade § 1 and 3) apparently consisted of meaningless words.

¹⁶ See for the latter seven World Summit for Social Development (Copenhagen 1995), Programme of Action, ch. 2 § 19.

countries taking the lead because it was in their interest. In the meantime, the trade agreements are hitting home. The south's biggest competitive advantage – cost-efficient food and plantation crops – is being whittled away. It is being forced to open its markets, but it is not benefiting as it needs to in the manufacturing and service sectors. The rich countries refuse to reduce the subsidies to their farmers, regardless of what that means to the south¹⁷.

4. Human rights as a “weapon” to fight poverty

“The demystification of human rights, both in terms of their economic and social content and their applicability to non-state actors, constitutes a critical step towards challenging the conditions that create and tolerate poverty”¹⁸

It is a fairy tale (for the rich countries) that poverty is just a matter of fact, not more than a slight moral inconvenience. Poverty, like hunger, is largely manmade. There is a solid legal basis to fight many of its aspects. A basis which could serve as a foundation for litigation against the non-willing and for convincing the non-believers. This could be a sound instrument for leading and courageous politicians who are seriously willing to take the necessary steps, but who are confronted with massive sabotage from industry or politicians belonging to the powerful coalition of the non-willing. It seems as though the number of leading politicians that is truly willing to take the eradication of poverty seriously, is increasing; not only in Latin America but also in other parts of the world.

Pierre Sané persuasively observed that “of the five families of human rights – civic, political, cultural, economic and social – proclaimed by the Universal Declaration of Human Rights as inherent to the human person, poverty violates the fifth, always; the fourth, generally; often the third; sometimes the second, or even the first”¹⁹.

The UN Declaration of Human Rights (1948) recognizes global poverty as a human rights issue. Of particular importance are art. 3 (right to life), 22 (right to social security), 23 (right to work on favourable conditions and protection against unemployment), 25 and 26 (standard of living adequate for health and well-being, including food, clothing, housing and medical care as well as a free and compulsory basic education). In addition, the preamble stresses equal rights and the promotion of social *progress* and *better* standards of life.

The preamble of the International Covenant on Civil and Political Rights (ICCPR) stresses that equal rights are derived from the dignity of the human person. According to art. 1 para 2 all peoples may, for their own ends, freely dispose of their natural wealth and resources²⁰. Art. 2 para 3

¹⁷ The Business Standard, August 17, 2005, quoted from Yale Global on Line. Narain adds that the world doesn't have ways – democratic or legal – to remedy this. It may follow from this contribution that she is unnecessarily pessimistic about the legal feasibilities.

¹⁸ JOCHNICK, p. 162.

¹⁹ Reducing Poverty: how human rights can help (lecture January 20, 2005), p. 4.

²⁰ Similarly art. 1 para 2 IESCR.

(a) ensures effective remedies in case of violations, whereas art. 6 is about the right to life²¹ (VIZARD, 2006, pp. 177, 178 and 185). Art. 8 insists out that no one will be held in slavery.

Art. 6 para 1 International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to work – including “everyone’s” right to the opportunity to gain his living by work. Art. 7 recognizes the right to just and favourable working conditions. Remunerations should, at least, be fair and provide the employees and “their families” a decent living; workers are entitled to rest, leisure, a “reasonable limitation of working hours” and paid holidays. Art. 9 recognizes everyone’s right to social security, whereas art. 11 recognizes the right to an adequate living standard for himself and his family, including adequate food, clothing, housing and “the continuous improvement of living conditions”. Para 2 stresses the “fundamental right of everyone to be free of hunger”. Art. 12 recognizes everyone’s right to the enjoyment “of the highest attainable standard of physical and mental health” and art. 13 the right to education; i.e. free primary education and “progressive introduction of free education” at higher levels.

Besides, the Convention on the Rights of the Child, the International Covenant on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women provide several obligations in the field of (eradication of) poverty. They are equally mentioned in various declarations and other international instruments (VIZARD, 2006, p. 9, 10 and 142). The Copenhagen World Summit for Social Development (1995) goes into quite some detail. It committed the participants to the eradication of “absolute” poverty, universal and “equitable access” to education and primary health care as well as increasing resources allocated to social development²².

The African Commission on Human and Peoples’ Rights has held that the right to food is inseparably linked to the dignity of human beings, and therefore essential for the enjoyment and fulfillment of other rights, such as health, education and work. It stressed that no right in the African Charter cannot be made effective (SHELTON, 2005, p. 225).

Several countries, such as South Africa, have protected human rights to an adequate standard of living (including food, water, housing, education and health) in their Constitution (VIZARD, 2006, pp. 8 and 179). This doesn’t mean that the State has to distribute money/resources to *individuals*, but requires a framework wherein individuals can realize these rights without undue influence from the State. The Constitutional Court held that a society must seek to ensure that the basic necessities of life are provided to all, if it is to be a society based on human dignity, freedom and equality (OLIVIER and JANSEN, 2006, pp. 122 and 125).

According to authoritative international interpretations of art. 2 ICESCR, financial constraints may be a ground for a certain delay in the full realization of economic and social rights, but they

²¹ See also Nizkor-report, The Realization of Economic, Social and Cultural Rights (www.derechos.org/nizkor/impu/guissee.html) § 98: the right to life means everything that contributes to the continued existence and improvement of the human condition; the state has to provide the necessary legal framework (§ 127).

²² Part C para 29 and the commentary thereto.

must be achieved within a reasonable time after ratification or accession. “Progressive realization” is an immediate, i.e. unconditional obligation. The State has to demonstrate that it is making measurable progress (VIZARD, 2006, p. 164). The steps undertaken by the States towards the implementation of the ICESCR should be “deliberate, concrete and targeted as clearly as possible”. This counts, e.g., for the right to food, health and water (VIZARD, 2006, pp. 166 and 179). The obligation to monitor the realization and non-realization is unconditional and immediate (VIZARD, 2006, p. 167). Resource “scarcity” does not relieve States from minimum obligations immediately²³. According to a statement of the UNCESCR a developing state also must at least realize minimum core obligations, i.e. “at the very least minimum essential levels of the rights” (OLIVIER and JANSEN, 2006, p. 124).

There is a huge body of doctrine about the status of conventions, declarations, commentaries and the like. States are bound to the former²⁴ and have committed themselves, time and again, to protect and promote human rights²⁵. Arguably the MDG’s count as customary international law²⁶, i.e. law that results from a general and consistent practice of states followed by them as a sense of legal obligation²⁷. Formally speaking, States are not bound to interpretation by the UN Committee, but, for practical purposes, they play an important role for national courts²⁸.

It is perhaps telling that human rights are often discussed in the context of single – albeit often serious – violations. There are exceptions to this rule. Parts of the world are – rightly so – shocked by the genocide in e.g. Rwanda. The world took, be it after the event, some action: a criminal tribunal. But we still ignore the 8 million children who die *every year* from poverty-related diseases²⁹. We even keep our eyes closed after the (ongoing) events. Do we subscribe to the view that poverty doesn’t belong to the realm of human rights, despite the fact that it, no doubt, is their biggest violation? (SUMUDU ATAPATTU, p. 2) Are we restrained by the vested interests of our soci-

²³ Committee on Economic, Social and Cultural Rights, General Comment no. 3 (nature of the States parties’ obligations, no. 12 (right to adequate food), no. 13 (right to education) and no. 14 (right to health); OHCHR, *Human Rights and Poverty Reduction, A Conceptual Framework* p. 26); Vizard, o.c. p. 169 and about case law of the South African Constitutional Court p. 180 ff with quotation on p. 182; on p. 183 she quotes a decision of the African Commission on Human Rights, whereas on p. 184 a judgment of a court of Argentina is discussed. Shelton, o.c. quotes the African Commission on Human Rights: fulfillment of these rights requires a state to “move its machinery” towards the actual realization, e.g. by directly providing, as necessary, “basic needs such as food or resources that can be used for food” (p. 223-224).

²⁴ The International Law Commission (2001, pp. 64, 65 and 126) stresses that a breach of all international obligations, regardless their origin, amounts to a wrongful act. States may not rely on provisions of their internal law as justification (art. 32 ICL draft). See also NAMITA WEI (2006, p. 75) and GROSS ESPIELL (2006, p. 137). The Copenhagen Declaration urges full respect for all human rights and access to justice (o.c., comment 1 to the commitments mentioned in § 29 and Programme of Action, ch. 2 § 35 (i).

²⁵ See, 2005 World Summit Outcome § 119, 120 and 122. The General Assembly reaffirms the indivisible, interrelated and interdependent nature of human rights (§ 121).

²⁶ OHCHR, *Human Rights and Poverty Reduction*, p. 29; Andrew CLAPHAM (2006, p. 86).

²⁷ SALAZAR, o.c. at 130, quoting the US Second Circuit (Federal Courts of Appeal). Art. 38 para 1 of the Statute of the International Court of Justice mentions as “sources” of international law: international conventions; international custom, as evidence of a general practice accepted as law; the general principles of law recognized by “civilized nations”; and, as subsidiary means of determination of the rules of law and subject to art. 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations. SALAZAR (2004, p. 130) quoting the US Second Circuit (Federal Courts of Appeal).

²⁸ International Law Association (ILA)-report *International Rights Law and Practice* (2004) § 176.

²⁹ Similarly SANÉ, o.c. p. 2.

ety?³⁰ Or are we only riding our own – rarely significantly important – hobbyhorses? Be it as it may, human rights are a sound basis to fight poverty. They are like a volcano: it looks pretty safe, until, suddenly, a serious eruption occurs.

5. *The mill stone of debts*

Many poor countries in Africa, Latin America and a few more in Asia are weighed down by heavy debts, provided by western banks and international institutions such as the IMF. Full repayment (with interest) would place an unbearable toll on the their populations, particularly the most vulnerable part thereof. Over the last few years this issue has been put on the agenda of the rich countries, who apparently feel some embarrassment. Understandably, if one is prepared to accept that

- a) most of the debt has been repaid many times³¹;
- b) most countries are simply unable to repay. E.g. in Nicaragua, Cameroon and Zambia the amounts repaid exceed those spent on health and primary education³²;
- c) a considerable part of the money has been wasted and/or has ended up in the bank accounts of the (then) ruling class (see § 6 below);
- d) the creditors should have known from the outset that (at least a number of) countries would be unable to repay the amounts due (Sachs, 2005, p. 280) and also that (major parts of) the amounts would be wasted, or at the very least used to accommodate the desires of the already more prosperous parts of society³³;
- e) the loans have often had foreseeable devastating consequences for the countries involved. As early as 1977, the Lester Pearson-Commission estimated that debt servicing alone would exceed the gross amount of new lending by 20% in Africa and 30% in Latin America³⁴.

At its Gleneagles meeting in 2005, the G8 decided to write off \$ 40 billion of debts of 18 mainly African countries. More countries might follow. Promising as this step undoubtedly is, it is far from sufficient³⁵. It affects only 1/8th of the population of low income countries, and represents a

³⁰ ATAPUTTU (p. 5) suggests that the gap between civil and political rights on the one hand and economic and social rights on the other reflects the North-South division.

³¹ See *Against the debt, for the other worlds in prospect*, p. 2 (www.cadtm.org/imprimer.php3?id_article=246).

³² www.debtireland.org/index.htm.

³³ Quoting Archbishop Desmond Tutu, “the West had a hand in promoting some of those leaders because it suited them at the time”; www.eurodad.org/articles/default.aspx?id=715 observes that governments and banks in the North have in the past lent large amounts to some of the world’s most notorious despots. These loans were extended to these dictators out of geopolitical strategic concerns and with the full knowledge of the regimes; see also RISCHARD (2002, CH. 14) and CADTM-report, o.c. p. 2.

³⁴ Nizkor-report, o.c. § 54 and 55.

³⁵ That is apparently also the view of the UN Generally Assembly; the 2005 World Summit Outcome speaks of (the necessity of) “deeper debt relief” (o.c. § 22(c)), “the high importance of a timely, comprehensive and durable solution to the debt problems” and “the need to consider [sic, JS] additional measures and initiatives aimed at ensuring long-term debt sustainability through (...) cancellation of 100 per cent of the official multilateral and bilateral debt of heavily indebted poor countries, and, where appropriate, and on a case-by-case basis, to consider

very small portion of those needing debt relief³⁶. Low income countries are indebted for \$ 380 billion and middle-income countries for \$ 1.66 trillion³⁷. \$ 40 million therefore is hardly an impressive figure. Most Latin American countries are not part of this “deal”³⁸. More importantly, the countries that benefit from this “forgiveness” were compelled to accept strict and most onerous policy conditions³⁹. It should be borne in mind that many countries not only suffer from those onerous conditions (such as privatizations and liberalization of trade)⁴⁰, but are continuously victims of trade barriers and heavy subsidies by the rich countries on their own products; see § 2 above.

It follows that the burden of massive debts greatly affects the vulnerable part of the population. More often than not, these did not benefit from the money borrowed by their states, whereas “they” have to pay more than a “fair” share in the “debt service” (i.e. repayment and interest)⁴¹. So the Nizkor-report (Realization of Economic, Social and Cultural Rights) rightly speaks of a serious violation of economic, social and cultural rights. The first targets obviously are the international institutions that have lent the money.

The African Commission on Human and Peoples’ Rights takes the view that governments must protect their citizens from damaging acts by private parties (SHELTON, 2005, p. 224). Would it be a bridge too far to stretch this theory to the obligation of national states to avoid damage they ought to be aware of, brought about by private companies based in their territory?

Private banks that have provided loans under the circumstances mentioned under a-e above, have also violated a series of human rights; see § 4 above. This gives rise to liability, I think. Let us briefly touch upon the possible grounds for liability.

International law has long contemplated duties for non-state actors (JOCHNICK, pp. 162 and 165). According to Kamminga and Zia-Zarifi, there is a growing consensus that multi-national companies (hereinafter also: mnc’s) are bound by rules applicable to all international actors (KAMMINGA and ZIA-ZARIFI, 2000, p. 8). They must not engage in bribery or corruption (KAMMINGA and ZIA-ZARIFI, 2000, p. 9), which, I tend to think, is an obligation that has almost certainly been seriously neglected in a setting as discussed above. Salazar observes that the accountability of non-state actors for human rights violations is an international rights norm (CLAPHAM, 2006, p. 325). In her – appealing – view, claims against mnc’s based on economic, social and cultural rights are likely

significant debt relief or restructuring for low- and middle-income developing countries with an unsustainable debt burden (...)” (§ 26).

³⁶ G8 Debt Relief Proposals, Jubilee Research, www.jubileeresearch.org/latest/debtrelief0605.htm.

³⁷ www.eurodad.org/articles/default.aspx?id=715; see for quotations of criticism Soren Ambrose, Addressing the G8 Debt Proposal & its Implications, www.focusweb.org/content/view/664/27 p. 7 and 8.

³⁸ G8 Debt Deal One Year On: What Happened and What Next, Eurodad Report, June 2006 p. 6.

³⁹ Jubilee, idem; Oxfam Press Release-19 December 2005, G8 debt promises about to be broken by International Monetary Fund, Editors notes supra 1.

⁴⁰ See Joseph STIGLITZ, *Globalization and Its Discontents*, CADTM-report. o.c. p. 2 and JOCHNICK, p. 167.

⁴¹ This assumption will probably be challenged by defendants in court. Although, as a general rule, the plaintiff will have to prove the causal link (at least the *condicio-sine-qua-non* relationship), I tend to believe that courts should not require too much evidence, depending *inter alia* on the obviousness and seriousness of the violation.

to come under the Universal Declaration of Human Rights, which specifically provides for liability in case of violation (SALAZAR, 2004, p. 143).

Richard Meeran suggests that, provided that there is sufficient involvement in, control over and knowledge of the subsidiary operations by the parent, there would be “no reason why the general principles of negligence should not apply” to the parent companies (KAMMINGA and ZIA-ZARIFI, 2000, p. 261).

As national courts are obliged to apply binding international norms, violation of a series of human rights should provide a sufficient cause of action, whether incorporated in national legal norms (probably the law of torts) or not.

Assuming briefly that one or more national courts would be reluctant to apply the norms mentioned in § 4, there cannot be much doubt that providing loans under the above-mentioned circumstances can be construed as a tort under the applicable national law. Defendants have been held liable for considerably less! Analogies with liability for improper investment advices and even more so: over-lending in the private sphere are evident (CAMPBELL and MERONI, 1993, pp. 150 and 349).

Finally: over the last decades, private law in many countries has developed as an adequate tool to protect “weak parties”. All kinds of consumer protection and new heads of damages (such as wrongful life and birth, loss of a chance⁴², traffic liability⁴³, liability for occupational diseases and labour accidents),⁴⁴ are just a few examples. Over the last two hundred years “strict liabilities” in many areas were introduced,⁴⁵ whereas many courts “invented” ad hoc rules to find adequate solutions in hard cases where the equities were considerably unbalanced⁴⁶.

Without challenging the need and desirability of the “novelties” enumerated in the previous paragraph, the very least to say is that they – many of them even entirely – concern relatively unimportant issues and cases. That is – at least in comparison with abject poverty – even true for the greater part of the judgments given by the International Human Rights Courts⁴⁷.

⁴² See The Principles of European Tort Law art. 3:106 and Text and Commentary (Spier) p. 56 ff.

⁴³ See S.P. de Haas and T. Hartlief, *Verkeersaansprakelijkheid* (1998).

⁴⁴ See Die Haftung des Arbeitsgebers, Munich Re 1993 and more recently: Eoin Quill, pp. 377-378; Herkus Gabartas and Milda Laucienė pp. 417-418 and Anton Dulak p.p 510 ff in Helmut Koziol and Barbara C. Steininger (eds), *European Tort Law 2004* (Yearbook); and in Koziol/Steininger (eds), *Yearbook 2003*: Jiri Hrádek pp. 88-89; Ken Oliphant pp. 114-115; Michael Faure and Ton Hartlief pp. 279-280 and 307-308.

⁴⁵ See e.g. B.A. Koch and H. Koziol (eds), *Unification of Tort Law: Strict Liability and the innovative enterprise liability* put forward in the Principles of European Tort Law art. 4:103 and Text and Commentary (Widmer) pp. 86 ff.

⁴⁶ See J. Spier, *Après le déluge*, in Ton Hartlief and Saskia Klosse (ed.), *Einde van het aansprakelijkheidsrecht* p. 345 ff.

⁴⁷ The following examples may suffice: the European Court of Human Rights’ case law about undue delay in civil matters (art. 6 ECHR) and nuisance, even if we bear in mind that the Court leaves national States a certain margin of appreciation. After all, in the latter cases the victims often have a choice, unlike victims of (extreme) poverty; besides: the amounts awarded by the Court are relatively low. See about the nuisance issue Cees van Dam, *European Tort Law* (2006) nr 1413-5.

Extreme poverty is of a completely different magnitude. It is about more people than those living in North America, Australia, Japan and Europe together. It deprives far over a billion co-inhabitants of our planet of the very *essentials* for a bearable, but still far from affluent life (i.e. more than just \$ 1 a day! As Jeffrey Sachs puts it: “death is not at their door” anymore⁴⁸). It causes misery on an unheard-of scale. It cannot be true that these people are bound to accept their fate, while the laws of the prosperous countries go out of their ways to accommodate people with all sorts of often trivial losses and discomforts. In other words: it cannot be true that the real victims of – as the lenders must have realised – unsustainable loans can only accept their fate.

It seems open to debate whether the plaintiffs should limit themselves to avoiding the loans. The more foreseeable damage the loans have done to the country/population, the more likely it seems that the plaintiffs could also claim damages⁴⁹.

This is not to say that litigation would be a walk-over. There are a number of obstacles, such as time limitation⁵⁰, the question who should or could claim, the causal link between the loss and the damage⁵¹ and the assessment of the latter. Moreover, the applicable law and the most favourable forum need to be considered. Space does not permit to dwell on any of these important topics⁵².

6. The flow of the wealth of developing countries to the safe havens of the western countries

The former rulers of the Philippines (Marcos) and Congo (Mobutu) have taken away respectively \$ 5-13 and \$ 10 billion⁵³. No doubt a considerable part of these amounts ended up in bank accounts in the world’s safe havens for this type of money. It may be taken for granted that there

⁴⁸ O.c. p. 18.

⁴⁹ The Permanent Court of International Justice held that “in the actual notion of an illegal act ... is that reparations must, as far as possible, wipe out all consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed”, (SHELTON, 2005, pp. 62-63).

⁵⁰ Which cannot be invoked in cases of crimes against humanity: Nizkor-report, o.c. § 32. Seen from a strictly legal angle, these may not, at first sight, be in evidence. The impact of poverty, however, is considerably greater than the impact of the “traditional” crimes against humanity. This argues for a flexible approach to the concept of crimes against humanity, I believe.

⁵¹ According to R. Singh, some courts easily find evidence sufficient: in Permanent Court of Arbitration (ed.), *Redressing Injustices Through Mass Claims Processes, Innovative Responses to Unique Challenges* p. 73 and 89/90. The entire damage has to be compensated (The International Law Commission (ILC), *Responsibility of States for International Wrongful Acts* (2001)) p. 223. That leaves untouched that not every loss will be attributable to the wrongful act. As a general rule, cause in fact (a *condicio-sine-qua-non* relationship) will be required, whereas the proximate cause-doctrine or a similar doctrine has to be applied too (SHELTON, 2005, p. 317) The ILC also mentions the cause in fact; moreover the remoteness, directness, foreseeability or proximity, depending on the merits of the case at hand p. 227 and 236-227.

⁵² Michael Byers has rightly observed that all this requires “long-term thinking and planning”, *English Courts and Serious Human Rights Violations Abroad: A Preliminary Assessment*, in Kamminga et al, o.c. p. 249.

⁵³ Debt and Development Coalition Ireland, www.debtire.org/index.htm.

are many more examples, not only of the (former) rulers and their families but also of others in senior positions⁵⁴.

It seems beyond reasonable doubt that the banks did not assume – even for a moment – that the money was decently earned. They must have known that the money was illegally taken from the countries involved⁵⁵.

As already set out in § 4 above, poverty belongs to the legal realm of a series of human rights: comprising *inter alia* life, an adequate living standard and at least free basic education. Moreover, all *peoples* may, for their own ends, freely dispose of their resources (art. 1 para 2 ICCPR). The banks that have accepted the huge amounts from dictators and their families (not even ought to have known, but) knew that this would greatly affect the budget of the already poor countries, with unavoidably devastating effects, particularly for the vulnerable part of the population. In other words: the banks brutally and willingly violated (or aided/abetted⁵⁶ the violation of) the fundamental human rights just mentioned.

Moreover, they were parties to the deliberate violation of the obligations of those in power to improve the situation in their own countries, thus violating human rights once again.

Litigation could not only be based on violation of human rights⁵⁷, but probably also on national tort law, whether influenced by human rights or international law or not; see § 6 above.

There are more indirect ways which might lead to the same end, e.g. suing the (families/estates of) the dictators⁵⁸ and urging them to provide information about the location of their assets⁵⁹, freezing the assets as long as litigation is pending and executing against them thereafter⁶⁰. The

⁵⁴ The 2005 World Summit Outcome puts it nicely: “capital flow” (§ 24).

⁵⁵ Debt and development coalition Ireland puts it this way: Zaire was ruled for decades by Mobutu “a man for whom the word kleptocrat was coined as he ruled by theft. It is estimated that he stole more than \$ 10 billion, while he kept the people of the country in fear and poverty. Despite widespread knowledge about this corruption” huge amounts were lent to him: www.debtireland.org/debt-issues/why-illigitimate-debt.htm. Similarly STIGLITZ, p. 253.

⁵⁶ Which also establishes liability: Amici curiae International human rights organisations in *Khulamani et al. v. Barclays et al.* at 11 ff.

⁵⁷ For practical purposes a substantial part of the money will stem from corruption, which is a violation of economic, social and cultural rights: Nizkor-report § 73.

⁵⁸ See e.g. *Hilao v. Estate of Ferdinand Marcos*, 103 F.3d.767 (US Court Appeals, Ninth Circuit 1996); and for more details, also about other cases, Shelton, o.c. p. 161 ff.

⁵⁹ As was done in the litigation against Marcos (SHELTON, 2004, p. 165).

⁶⁰ For the time being, litigation, conducted *on the basis of the US Alien Tort Claims Act* (1789) has not been very successful in collecting large amounts of money, as the money often disappeared before judgment, when no assets in the USA could be traced (SHELTON, 2004, p. 172). It should be borne in mind that the US Supreme Court takes a restrictive view on the scope of the ATCA; see *Sosa v. Alvarez-Machain et al.*, 542 US 692 (2004); the judgment is an excellent example of “hard cases make bad law”. After all, Alvarez (the original plaintiff) grossly violated human rights himself which makes the outcome at least understandable. On October 17, 2005 the Democrat Senator Feinstein introduced an amendment which aimed, as she put it, to “establish a fair, legal basis for filing suit under the Alien Tort Statute” (Congressional Record-Senate October 17, 2005 S11433), but which, for practical purposes, narrowed down its scope. The amendment was withdrawn after fierce criticism eight days later. See for more details about ATCA: SALAZAR, 2004, p. 126; BETH STEPHENS, “Corporate Accountability: Inter-

example of the lawsuit by the Philippine government against its former president Marcos shows that this can be very effective. The Swiss government had frozen Marcos' bank accounts. Subsequently the Swiss government released the funds frozen for transfer to the Philippine National Bank in escrow, pending a determination of proper disposal by a competent court in the Philippines. The Philippine Supreme Court held that the assets were forfeited to the Republic. Efforts in the United States to avoid payment of the amounts to the Philippines, based on alleged violation of due process, failed in US courts on appeal⁶¹.

7. Wilful misconduct by private companies and national states

John Perkins paints in his "Confessions of an Economic Hit Man" a gloomy picture of several multinational companies. As chief economist of a building company – in his view (in fact) a front organization for the US government – he had to make analyses of major building projects. His task was to "inflate" the return of those projects to provide a "sound" basis for overlending. The aim was not (primarily) to get the money back. On the contrary: the borrowers – national states – had to be securely bound to the US. When the borrower could not meet its obligations, it was coerced into providing access to e.g. natural resources, without any "forgiving" of the debt, of course. The borrowed money "disappeared" straightaway to foreign companies and a few very rich local people. The devastating consequences for major parts of the local population were altogether ignored.

Perkins describes the deliberate destruction by a major oil company of the rainwood of Ecuador and a tremendous spilling of oil and dangerous substances in rivers. During the oilboom the unemployment went up from 15 to 70%, whereas the "official" poverty increased from 50% to 70%. The national debt increased from \$ 240 million to \$ 16 billion. Ecuador was not an exception, according to Perkins⁶².

These are just examples. According to Perkins, these things are far from exceptional; they are not confined to a few countries, nor to a few private companies⁶³.

If there would be sufficient evidence⁶⁴, it does not require any elaboration, I trust, that deliberate actions as described give rise to liability, based on international law, human rights and national tort law alike. Not only of the companies and states but (probably) also of the responsible politicians and the managers⁶⁵.

national Human Rights Litigation Against Corporations in US Courts", in KAMMINGA, p. 209; POULLAOS (2002, p. 1359); SHELTON (2004, p. 160); and *Wiwa et al. v. Royal Dutch Shell*, 226 F.3d 88 and 392 F.3d 812.

⁶¹ *Philippine National Bank v. Maximo Hilao*, 95. F.3d.848 (ninth circuit 2005), also for a description of the background.

⁶² See, also for other specific examples, his introductory chapter, ch. 2, 10, 17, 21, 22, 24, 27, 33, and 34.

⁶³ Ch. 29.

⁶⁴ Perkins' story sounds plausible, all the more so as he also accuses himself. Yet, more evidence will probably be required.

⁶⁵ I leave criminal "liability" untouched, as that is not the topic of this contribution.

8. *Historical wrongs*

The issue of historical wrongs may seem a bit far-fetched. Admittedly, slightly to my own surprise, it is not. Litigation in this area is booming. Although there are few plaintiffs' victories in court, litigation has resulted in many settlements. So it seems worthwhile to address this topic.

In the middle of the 18th century, the average standard of living in Europe was slightly lower than that in the rest of the world (DAVIS, 2001, pp. 292-293). Many travellers account of "evident agricultural prosperity of many - though not all - of its [i.e. Africa's] peoples": Africa felix (DAVIS, 2001, p. 200). A century later, Europe and, to a lesser extent, the United States have wrought unheard-of evil in major parts of Africa, Asia and Latin America.

The outgrowth of income- and wealth inequalities was shaped decisively in the last quarter of the 19th century when the great non-European peasantries were initially integrated into the world economy (DAVIS, 2001, pp. 15, 16 and 205). Mike DAVIS (2001, p. 306) brilliantly describes how the "western" powers greatly misused the extreme droughts in that period to establish their power and to destroy the infrastructure of a many countries.

In brief: "Forcibly imposed trade deficits, export drives that diminished food security, overtaxation and predatory merchant capital, foreign control of key revenues and development resources, chronic imperial and civil warfare, a Gold Standard that picked the pockets of Asian peasants: these were key modalities through which the burden of "structural adjustment" in the late Victorian world economy was shifted from Europe and North America to agriculturalists in newly minted « peripheries »".

A preparatory report of the Americas "accepts" that enslavement and other forms of servitude of Africans and their descendants and of the indigenous people of the Americas, as well as slave trade resulted in substantial and lasting economic, political and cultural damage to these peoples" (SHELTON, 2005, p. 452; SACHS, 2005, pp. 191-192 and 207-208).

In southern Africa the drought became the "chief ally" of the Portuguese and the British against still independent African societies (DAVIS, 2001, p. 99). In other parts the Germans did (DAVIS, 2001, p. 204). In Egypt a Franco-British coalition succeeded in getting control over revenues. European creditors were allowed to directly attach the property of peasant smallholders. Regiments of tax-collectors, with moneylenders in their wake, imposed a reign of terror; they mercilessly continued after widespread reports on starvation (DAVIS, 2001, p. 104). When Beijing was distracted by flood disaster and a cholera epidemic, London and Berlin negotiated the notorious Anglo-German Agreement which acknowledged British and German hegemony in major parts of the country (DAVIS, 2001, p. 181). The Americans manipulated disease and hunger in the Philippines. Their officers openly acknowledged "that starvation had become official military strategy" (DAVIS, 2001, pp. 198-199).

Our ancestors were totally indifferent to the misery they brought about and that was caused by the droughts. The English Famine Commission 1878-1880 approved and underscored the "Vice-

roy's" blatant view that "The doctrine that in time of famine the poor are entitled to demand relief ... would probably lead to the doctrine that they are entitled to such relief at all times, and thus the foundation would be laid of a system of general poor relief, which we cannot contemplate without serious apprehension" (DAVIS, 2001, p. 33).

People who suffered from very serious hunger were forced to hard labour. Yet, the caloric intake they got in return in 1877 was less than the Buchenwald-ration (DAVIS, 2001, pp. 38-39). Famine became a powerful opportunity for the accumulation of land and servile labour (DAVIS, 2001, p. 206).

The examples just given are a few out of many. Slavery (or its "modern" form of forced labour)⁶⁶, harm done to indigenous peoples, damage done in wars, and more recently non-payment of insurance policies to the descendants of holocaust victims and apartheid jostle for attention.

Not surprisingly defendants often argue – besides many other defences – that the acts were entirely legal at the time (D'ARGENT, 2006, pp. 285-286; SHELTON, 2005, p. 428). In cases as briefly described, that argument is hardly convincing, and even less so if one departs from the ICJ's view that an international instrument has to be interpreted and applied within the framework of the entire legal system prevailing *at the time of interpretation* (SHELTON, 2005, pp.459 and 463). Even the German Cuncelor Von Bülow those days called "extermination" a crime against humanity (SHELTON, 2005, p. 439). The US Supreme Court, with a hint of irony, observed that the Declaration of Independence of 1776 "would seem to embrace the whole human family" (SHELTON, 2005, p. 443; SPITZER, p. 1341).

Over the last decades, victims have found their ways to the courts. Although litigation did not often lead to victories for the plaintiffs in court⁶⁷, it has brought about a series of settlements (D'ARGENT, 2006, p. 282; BARKAN, 2003, p. 412; and SPITZER, p. 1344). It is essential to touch the right chord. Causing diplomatic embarrassment can be tremendously helpful (D'ARGENT, 2006, p. 286), as this may serve as a basis for political solutions (BARKAN, 2003, pp. 413-414). Holocaust claims may serve as a perfect example. After an unsuccessful court action, the US House of Representatives, under immense "public pressure", lifted Germany's sovereignty and corresponding immunity. The German government subsequently agreed to pay a lump sum (SHELTON, 2005, p. 432). Cases brought against insurers who failed to pay on Holocaust victims' policies established an International Commission to deal with payments. California adopted the Holocaust Insurance Relief Act of 1999 which compelled any insurer doing business in the State to disclose information about all policies sold in Europe between 1920 and 1945⁶⁸. One US Federal Court judge negotiated an agreement of \$ 1.25 billion with Swiss banks about deposits by the nazis of amounts

⁶⁶ See *Doe v. Unocal et al.* (US Court of Appeals, Ninth Circuit, September 18, 2002)

⁶⁷ Yet, the number of court cases is increasing; see BARKAN (2003, p. 429) and SHELTON (2005, p. 429). See also SPITZER (p. 1338). According to SPITZER, it could be argued that national States have waived sovereign immunity, whereas time limitation can be overridden by the delayed development of a cause of action in international law. One of the most intriguing questions is how far we could go back into the past; see CHAKMA (2003, pp. 66-67). See about other obstacles BARKAN (2003, p. 419).

⁶⁸ SHELTON (2005, p. 433); the USCC, however, held the Act unconstitutional.

derived from slave labour. Actions filed against German, French and British banks were similarly settled. More than forty lawsuits against German companies that allegedly used forced labour were dismissed, but resulted in a foundation which is going to make *ex gratia* payments for \$ 10 billion. Lawsuits about *inter alia* apartheid⁶⁹, for abuses against indigenous peoples and slavery, are still pending (SHELTON, 2005, p. 435). The latter are not only based on tort law, but also on contract, trust, unjust enrichment and restitution (SHELTON, 2005, pp. 444-445).

Several countries have negotiated settlements. Australia returned 96,000 square miles to Aborigines in 1976; Canada restored land to indigenous groups; South Africa is permitting land claims for restitution back to the Native Land Act of 1913. The US has resolved claims for seizure of Indian property and breaches of treaties, whereas Alaska granted monetary relief. New Zealand created a process for redressing wrongs committed in the late 1880s involving returning lands, factories, fishing vessels and rights (SHELTON, 2005, pp. 447-448).

In 2000 Austria has established a \$ 380 million fund to compensate individuals forced into slave labour in World War II, and several indigenous groups in the US, Norway and Denmark have recovered monetary compensation (SHELTON, 2005, p. 449; CHAKMA, 2003, pp. 67-68). The African and Asian Regional Preparatory Conference for the 2001 UN Conference on Racism urged financial compensation for historical injustices, supported by the Latin America and Caribbean countries (SHELTON, 2005, pp. 451-452; CHAKMA, 2003, p. 60)..

The issue of wrongs of the past is also significant for more recent violations of human rights and other parts of the realm of international law. If the former can be “cashed in” upon, the same should *a fortiori* be true for the latter. It would be *even more* difficult to justify why, e.g., stolen cultural property would have to be given back, whilst violations causing tremendous suffering to far more than a billion people should be treated as a fact of life (BARKAN, 2003, p. 415).

Besides: the victories – be it often outside courts – in relation to historical injustices tell us another and perhaps more important story. They underscore the importance of the right “stories”, the appeal to the public discourse, political pressure, the threat of litigation and old-fashioned politics (BARKAN, 2003, p. 421; SPITZER, p. 1344). Last but not least: victims should become aware of their rights and the desirability of collective action (SUDARSHAN, 2002, p. 6).

9. Final observations: what next?

“Nowhere is the gap between rhetoric and reality – between declarations and deeds – so stark and deadly as in the field of international humanitarian law”⁷⁰.

⁶⁹ According to the Amici curiae, i.e. international human rights organisations, in *Khulumani et al. v. Barclays et al.*, a crime against humanity: § 6 ff.

⁷⁰ In larger freedom, o.c. § 134.

Europe and the United States are, to a large extent, responsible for a major part of the misery in a substantial part of the globe. Our ancestors have wilfully destroyed old civilisations; they have benefited from slavery and have greatly exploited “their” parts of Africa, Asia and Latin America. Since, we have continued to do further harm to those countries: trade barriers, exploiting their natural resources, urging them to take devastating measures, such as opening their markets, privatizations, lending irresponsibly large amounts of money, well aware that these will rarely be used to the benefit of the (poor) people, but are bound to disappear in corruption and flow to banks and other safe havens in our part of the world. We cannot nor should escape our responsibilities for our continuous wrongdoings.

This contribution briefly dealt with the role the law could play, if only a crowbar to make our policymakers and business people believe that they cannot go on leaning backwards. Something *must* be done! Depending on the facts in concrete cases, liability of private companies and private persons does not seem a phantom at all. It could – and no doubt will – become a reality.

As set out above, human rights, international law, *ius cogens*⁷¹ and liability law can play an important role to facilitate the eradication of poverty. That is not to say that it will be a walk-over in every single case. Yet, the chances are quite favourable and the time is ripe. Besides: a threat of litigation may serve as an excellent incentive to settle or to find other ways to accommodate the deprived (see § 8 above).

The non-believers and those who feel reluctant should remember the toll paid by other non-believers (parts of industry and most (re)insurers) in other areas where the lives and well-being of a many people were ignored altogether; the asbestos litigation may serve as an example⁷².

That is also not to say that litigation is or should be the ultimate goal. No doubt other solutions are preferable, whether or not by means of settlements, cancellation of debts (SACHS, 2005, p. 100), meeting promises pledged time and again to pay 0.7% of the national income to developing countries (see § 2 above) or a combination of all of the above.

Each financial solution is only useful if it will truly bring relief to the deprived, instead of adding to the wealth of the elite, being spent on overpaid advisors or ending up in bank accounts of local rulers in the world’s safe havens. The same is true if courts were to start finding for the plaintiffs. We need to find ways to ensure that the amounts will not “line the pockets of corrupt state officials and the elite”⁷³.

⁷¹ Norms accepted and recognized by the international community of States as a whole from which no derogation is permitted: art. 53 Vienna Convention on the Law of Treaties; see for further elaboration CLAPHAM (2006, p. 87).

⁷² See Munich Re, 7th International Liability Forum 2003.

⁷³ The flows of money ought to be audited and evaluated (without wasting money to overpaid advisors) (SACHS, 2005, pp. 278-279). This is far from easy. After all, as a general rule, it is up to the plaintiff how he wishes to spend the money awarded by the court. The reasoning behind art. 35 (b) ICL draft [a State responsible for an international wrongful act is under an obligation to make restitution, provided that restitution does not involve a burden out of proportion (the rest is omitted)], might serve as a basis. It must be avoided that the awards are wasted in bureaucracy. As to the waste of money: the average African country is involved in 600 projects, gets 1,000 official

Irrespective of whether or not litigation is needed⁷⁴ to eradicate poverty, in-depth research must be done to draft a sound and solid legal document to convince potential “targets” that they are very much at risk. This requires not only a fair description of the law as it stands. It also requires the breaking of new ground.

It would be unacceptable if the rules, laid down in a great many declarations, treaties and conventions remain meaningless words. All the less so, as our part of the world can be blamed for a considerable part of the misery of major parts of Africa, Asia and Latin-America.

But even if the many conventions, declarations and the like were only *meant* as exercises in eloquence, they must be *given* a real meaning and effect. Seen from a legal angle, they *have* implications and they *are* a sufficiently solid basis for enforcement (see § 4 above). Enforcement should be materialized in a prudent way, in order to achieve maximum results. This is quite a challenge for lawyers, not only for academics, but particularly for the bar and the bench.

We should not waste any more time filing away at the margins of the eradication of poverty. We should focus less on fighting terrorism with military means (thus spending irrationally huge amounts), rather than preventing it by focusing on one of its major breeding grounds: poverty. We must embark on concrete, bold and effective actions, instead of harping on the poverty-mantra’s: we “call for”, “strengthen”, “reinforce”, “reaffirm”, “commit”, “promote”, “support”, “develop” and similar phrases⁷⁵. Every day of passive waiting causes the unnecessary death of 24.000 people!

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visits every year and has to produce 2,400 reports every three months (RISCHARD, 2002, ch. 13). See for the requirements needed to end poverty SACHS (2005, p. 244).

⁷⁴ The argument that courts should not handle cases which might affect international relations is not convincing. Ivan POULLAOS rightly observed that these issues often are neglected by states, whereas the chances that the international institutions will be able to tackle them effectively is remote (RISCHARD, 2002, ch. 16). As justice to victims will rarely be done in dictatorial states, courts of other countries must step in (POULLAOS, 2002, p. 353).

⁷⁵ See The chapter (Part C) of Copenhagen Declaration on Social Development (1995). In the Chair’s Summary of the G8-meeting in St. Petersburg (2006), the poverty issue is hardly addressed. Views were exchanged “on a number of issues related to the creation of necessary conditions for overcoming poverty (...)” (p. 4). The Fourth World Conference on Women (Beijing Declaration, 1995) put it beautifully: “dedicate ourselves unreservedly to addressing these constraints [poverty, JS] and obstacles and thus enhancing further the advancement and empowerment of women all over the world, and agree that this requires urgent action in the spirit of determination, hope, cooperation and solidarity, now and to carry us forward into the next century” (§ 7).

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