

# The emergence of the right to development

*Report of the Secretary-General<sup>1</sup>*

## I. Observations on the core concept of “development”

The concept of “development” is fundamental to the present study. Yet few terms have been used to convey so many different notions or been subject to as many successive revisions in interpretation. Growing awareness of the complexity of the development process has served to underline the difficulty of describing it within the confines of a single definition. It is possible, nevertheless, to discern the emergence in the years leading up to this report of a strong consensus on the principal definitional elements of the term.

At least until the mid-1960s the terms “development”, “economic development” and “growth” were generally considered to be synonymous and were used interchangeably. It was thought possible to measure development in terms of an increase in gross national product, the benefits of which were

assumed to flow throughout a society on the basis of a “trickle-down pattern”.<sup>2</sup> Thus, the programme for the first United Nations Development Decade, while bearing in mind the undertaking in the Charter of the United Nations “to promote social progress and better standards of life in larger freedom”, dealt largely with the measures required to “accelerate progress towards self-sustaining growth of the economy of the individual nations and their social advancement so as to attain in each underdeveloped country a substantial increase in the rate of growth”.<sup>3</sup>

The need for economic growth and social and cultural development to be concurrent and complementary was accorded greater emphasis in subsequent formulations of the objectives of development.<sup>4</sup> Promotion of respect for human rights was also seen to be a fundamental ingredient in the process. Indicative of these developments was the warning contained in a United Nations report (E/3447/Rev.1, para. 90) which appraised the prospects for progress during the Development Decade:

One of the greatest dangers in development policy lies in the tendency to give to the more material aspects of growth an overriding and disproportionate emphasis. The end may be forgotten in preoccupation with the means. Human rights may be submerged and human beings seen only as instru-

<sup>1</sup> This chapter is a condensed version of the report of the Secretary-General on the international dimensions of the right to development as a human right in relation with other human rights based on international cooperation, including the right to peace, taking into account the requirements of the New International Economic Order and the fundamental human needs (E/CN.4/1334), submitted to the thirty-fifth session of the Commission on Human Rights pursuant to paragraph 4 of Commission resolution 4 (XXXIII) adopted, without a vote, on 21 February 1977. The selected extracts from the study, written eight years before the adoption of the Declaration on the Right to Development, have been chosen because of their salience 25 years after the adoption of that text. They represent less than one tenth of the original text, but are indicative of the in-depth and comprehensive approach taken to the right to development prior to the process of drafting the Declaration. The text, including the references, has been edited as necessary to reflect changes in United Nations practice since the report was issued in 1979, to clarify some ambiguities that have emerged owing to the passage of time and to correct errors where the limited availability of the original sources has made this possible.

<sup>2</sup> See, for example, W.W. Rostow, *The Stages of Economic Growth*, 2nd ed. (Cambridge, United Kingdom, Cambridge University Press, 1971).

<sup>3</sup> General Assembly resolution 1710 (XVI), preamble and para.1, designating the 1960s the United Nations Development Decade.

<sup>4</sup> François Perroux, *L'Économie du XXe siècle* (Paris, Presses Universitaires de France, 1961); David Morawetz, *Twenty-five Years of Economic Development: 1950 to 1975* (Washington, D.C., World Bank, 1977) especially chap. 1, “The changing objectives of development”.

ments of production rather than as free entities for whose welfare and cultural advance the increased production is intended.

In the mid-1960s, perceptions of development problems, needs and priorities began to evolve towards a concept of “development” that was far broader than just economic growth. The General Assembly, in resolution 2027 (XX), recognized the need to devote special attention on both the national and the international level to the promotion of respect for human rights within the context of the Development Decade. The same point was stressed again in the Declaration on Social Progress and Development adopted in 1969 by the Assembly in its resolution 2542 (XXIV).

Just as implementation of the universal principles embodied in the International Bill of Human Rights may reflect the different perceptions and experience of each nation and each community,<sup>5</sup> so too the complexity and organic character of the development process means that there is no universally applicable model for the process of development.<sup>6</sup> At the same time, it is clear that an effective development strategy, whether at the national or international level, must be based on respect for human rights and incorporate measures to promote the realization of such rights if it is to be effective in fostering development in the most meaningful way.

Development being considered as fulfilment of the human person in harmony with the community is a matter of universal relevance; it should not be considered relevant only to the countries traditionally termed “developing”. Once development is no longer viewed merely in terms of growth of national income or even per capita income, but in the larger sense of the creation of conditions conducive to the full realization of the individual in every aspect of his/her being, it is an aspiration which should be pursued in all countries.<sup>7</sup> In the developed countries, for example, some of the following issues might warrant attention because of their bearing on the development process: the relationship between economic growth and the well-being of the individual; problems of alienation, overconsumption

and non-participation in decision-making; and environmentally unsound policies.

An analysis of major United Nations instruments and debates indicates the existence of a general consensus as to the need for the following elements to be part of the concept of development:<sup>8</sup> (a) the realization of the potentialities of the human person in harmony with the community should be seen as the central purpose of development; (b) the human person should be regarded as the subject and not the object of the development process; (c) development requires the satisfaction of both material and non-material basic needs; (d) respect for human rights is fundamental to the development process; (e) the human person must be able to participate fully in shaping his/her own reality; (f) respect for the principles of equality and non-discrimination is essential; and (g) the achievement of a degree of individual and collective self-reliance must be an integral part of the process.

## II. Observations on the term “international dimensions” as understood in the context of the study

In the light of references to international cooperation in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, it may be said that the specifically “international” dimensions of the right to development are of major and increasing significance for the following reasons:

- (a) The fabric of development in any country consists of many threads which are both national and international in origin. It is therefore impossible to consider development without regard for the international context in which it takes place;<sup>9</sup>

<sup>5</sup> See Manouchehr Ganji, *The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress* (United Nations publication, Sales No. E.75.XIV.2).

<sup>6</sup> Summary record of the Commission on Human Rights (E/CN.4/SR.1391), para. 39. The summary records of the Commission on Human Rights cited in this chapter refer to the thirty-third session, held in 1977.

<sup>7</sup> Kwasi Wiredu, “Human solidarity: a philosophical exposition”, paper presented to the United Nations Educational, Scientific and Cultural Organization (UNESCO) expert meeting on human rights, human needs and the establishment of a new international economic order, Paris, 19-23 June 1973 (paper SS-78/CONF.630/4), p. 12.

<sup>8</sup> In addition to materials cited in the report, this consensus is reflected in the following: UNESCO, *Medium-Term Plan (1977-1982)*, Doc.19 C/4; W. Haque and others, *Towards a Theory of Rural Development* (Bangkok, United Nations and Asian Development Institute, 1975), reprinted in *Development Dialogue No. 2* (Uppsala, Dag Hammarskjöld Foundation, 1977), pp. 15-19; *What Now?: The 1975 Dag Hammarskjöld Report on Development and International Cooperation* (Uppsala, Dag Hammarskjöld Foundation, 1975); and *Reshaping the International Order – A Report to the Club of Rome*, coordinated by Jan Tinbergen (London, Hutchinson, 1977), pp. 61-71.

<sup>9</sup> “While, ultimately, it is for the developing countries themselves to do their utmost to accelerate their economic and social progress, their efforts will be frustrated if the necessary international policies are not adopted to create an environment conducive to supplementing and strengthening these efforts.” *Towards Accelerated Development: Proposals for the Second United Nations Development Decade: Report of the Committee for Development Planning* (United Nations publication, Sales No. E.70.II.A.2), p. 22.

- (b) There is increasing recognition of the fundamental interdependence of societies which is coupled with the interdependence of the problems which mankind is now facing. Thus, account must be taken of a broad range of transnational contacts in the form of the movement of people and ideas, involving individuals, corporations and other private groups. Rapid technological progress in fields such as communications and transport has facilitated the dissemination of information and ideas on an unprecedented scale. On the philosophical level it has been noted that “for contemporary thought the world forms a whole, a unity of interrelated parts; a global approach to world problems is manifestly the only approach which comes to terms with their real nature”.<sup>10</sup> Similarly, the *World Development Report, 1978* emphasized the importance of fully recognizing the structural and other implications and benefits of global economic interdependence;<sup>11</sup>
- (c) The global development process faces many obstacles which are of a largely transnational character. In the economic sphere these obstacles include continuing patterns of domination and dependency, unequal trade relations and restrictions from external sources on the right of every nation to exercise full sovereignty over its national wealth. Thus, underdevelopment has been said to be the “consequence of plunging a society and its economy into a world whose structures condemn them to a subordinate status and stagnation or internal imbalance”.<sup>12</sup> Specifically, some major transnational obstacles were listed in the preamble to Commission on Human Rights resolution 4 (XXXIII) as follows: “the persistence of colonialism, aggression and threats against national sovereignty, national unity and territorial integrity, of foreign occupation, apartheid and all forms of discrimination and domination”;
- (d) Both the Charter of the United Nations and the International Bill of Human Rights stress the need for international cooperation with a view to achieving universal respect for human rights.

In any analysis of the right to development, the well-being of individuals in areas such as the availability of food, access to health care and education facilities, population policies, the availability of meaningful employment, the achievement of an equitable rural/urban balance and environmental factors must be considered. Many of these issues have become the subject of standard-setting instruments drawn up by the United Nations and its specialized agencies such as the International Labour Organization (ILO) and UNESCO and can thus no longer be considered to be exclusively within the domestic jurisdiction of Member States that are parties to such instruments.

In view of the growing interrelationship between “national” and “international” aspects of development, it may not always be possible to draw a workable distinction between what constitutes the “international” as opposed to the “national” dimensions of particular issues. In some cases the influence of activities at one level on those at the other level may be decisive, and it is thus not feasible to consider only a single side of the coin.

### III. Ethical aspects of the right to development

Consideration of the ethical aspects of the human right to development raises a variety of issues which were referred to during the relevant debate at the thirty-third session of the Commission on Human Rights in 1977. These range from the relatively pragmatic view that it is in the best interests of all States to promote the universal realization of the right, to the view that there are fundamental philosophical values which can be said to underlie the right to development in its broadest sense. These issues encompass in particular the following arguments:

- (a) *The fundamental character of development:* the promotion of development is a fundamental concern of every human endeavour;
- (b) *The international duty of solidarity for development:* in international relations there exists a duty of solidarity which is solemnly recognized in the Charter;

<sup>10</sup> UNESCO, Medium-Term Plan (1977-1982), introduction, para. 25.

<sup>11</sup> World Bank, *World Development Report, 1978* (Washington, D.C., 1978), p. 68.

<sup>12</sup> UNESCO, Medium-Term Plan (1977-1982), p. 57, para 311.

- (c) *Moral interdependence*: the increasing interdependence of all peoples underlines the necessity of sharing responsibility for the promotion of development;
- (d) *Economic interdependence*: it is in the economic best interests of all States to promote universal realization of the right to development;
- (e) *The maintenance of world peace*: existing economic and other disparities are inconsistent with the maintenance of world peace and stability;
- (f) *The moral duty of reparation*: the industrialized countries, former colonial powers and some others have a moral duty of reparation to make up for past exploitation.

These are a variety of ethical arguments which may be considered to support the existence, in ethical terms, of a right to development. It is now proposed to consider the legal norms of relevance to the right to development.

#### IV. Legal norms relevant to the right to development

Recognition of the right to development would appear to be implied by Commission on Human Rights resolution 4 (XXXIII). One scholar has expressed his view of the implications of this resolution as follows: "Thus, a new right is being elaborated before our eyes—the right to development."<sup>13</sup>

The legal norms relevant to the right to development are to be found primarily in the Charter of the United Nations and the International Bill of Human Rights. The approach by which the right to development is viewed as a synthesis of a large number of human rights has found favour with a number of commentators. In a paper presented to a UNESCO-sponsored meeting of experts on human rights, human needs and the establishment of a New International Economic Order, held in Paris in June 1978, the view was expressed that "development appears less as a separate right than as the totality of the means which will make economic and social rights effective for the masses of people who are grievously deprived of them".<sup>14</sup>

<sup>13</sup> Kéba M'Baye, "Le développement et les droits de l'homme", paper presented to the Colloquium on Development and Human Rights, Dakar, 7-12 Septembre 1978, organized by the International Commission of Jurists and the Association sénégalaise d'études et de recherches juridiques, p. 25.

<sup>14</sup> Jean Rivero, "Sur le droit au développement", paper SS-78/CONF.630/2, p. 3.

Similarly, another scholar has stated that "recognition of the existence of the human right to development may follow from a systematic interpretation of the international instruments which have been cited, insofar as they proclaim and protect the economic and social rights of individuals".<sup>15</sup> In the same vein, another commentator has expressed the view that juridically, almost all of the elements that constitute the right to development are the subject of existing declarations, resolutions, conventions or covenants.<sup>16</sup> This view was endorsed by commission I of the Colloquium on Development and Human Rights held in Dakar in September 1978. Among the conclusions of the commission was the following:

There exists a right to development. The essential content of this right is derived from the need for justice, both at the ... national and the international levels. The right to development draws its strength from the duty of solidarity which is reflected in international cooperation. It is both collective and individual. It is clearly established by the various instruments of the United Nations and its specialized agencies.<sup>17</sup>

It may be considered that the idea of a right to development originates, in part, from a new conception of the redistribution of power and decision-making and sharing of the world's resources based on needs. In the view of some scholars, this idea of need as a basis for entitlement is the central feature of the contemporary international law of development.<sup>18</sup> In the view of one scholar, the conception of international entitlement to aid and preferences based on need is either expressed or implied throughout the entire range of international decision-making pertaining to development: in many of the agreements relating to trade preferences, investment and resources; in the bilateral and multilateral programmes of aid; and in the broad normative resolutions adopted by United Nations bodies on commodities, relocation of industry, the oceans, international liquidity and numerous related matters.<sup>19</sup>

<sup>15</sup> Héctor Gros Espiell, "El derecho al desarrollo como un derecho de la persona humana", paper presented to the Seminario sobre Protección y Promoción Internacional de los Derechos Humanos, Universalismo y Regionalismo, Caracas, 31 July-4 August 1978, held under the auspices of the Government of Venezuela, the Inter-American Commission on Human Rights and UNESCO, p. 18.

<sup>16</sup> M'Baye, "Le développement et les droits de l'homme", p. 29.

<sup>17</sup> Commission I, Conclusions and Recommendations, mimeo, Dakar, September 1978, para. 10.

<sup>18</sup> Oscar Schachter, "The evolving law of international development", *Columbia Journal of Transnational Law*, vol. 15, No. 1 (1976), p. 10.

<sup>19</sup> *Ibid.*, p. 9.

## V. Subjects and beneficiaries of the right to development

The preceding analysis of the ethical and legal aspects of the right to development clearly indicates the extent to which it is a multidimensional right. In this and the following section of the study an endeavour is made to list the subjects and beneficiaries of the right, on the one hand, and those for whom the right implies duties, on the other hand; it must nevertheless be recognized that it is not possible within the confines of the present limited study to provide an exhaustive description of all the subjects, beneficiaries and duty bearers which relate to the right to development.

The distinction is of considerable jurisprudential significance<sup>20</sup> and arises in connection with an issue on which a clear worldwide consensus does not yet exist—the status of individuals under international law. The significance of the distinction between “subject of law” and “beneficiary”, in all sectors of jurisprudence (domestic or international, family, civil or commercial law) is essentially related to the concept of “legal claim”. A subject of law, *ipso jure*, may formulate a legitimate personal demand or “claim” against the duty bearers. A mere “beneficiary” does not have such a personal legal claim, although his/her interests—direct or indirect—in the implementation of a given right may be great. If the individual or collective entities are “subjects” of the human right to development, it follows that they may invoke a legal claim against a duty bearer’s community, the State, and the regional and global international community for the pursuit in good faith of efforts to promote their development. Confusion often occurs between the concept of “legal claim” and that of “procedural capacity”. As was pointed out, for instance, by Sir Hersch Lauterpacht,<sup>21</sup> there are several examples in various legal spheres of subjects of law, being thereby possessors of legal claims, but not enjoying the procedural capacity themselves to initiate legal action for the implementation of their rights. For instance, in municipal law, infants and weak-minded persons are subjects of law and have claims, but they may not actuate their claims themselves. For a long time, the individual, even if he/she was regarded as a direct subject of international law, had no procedural capacity on the international level.

As regards the human right to development, many scholars now maintain that the individual, States and possibly other collective entities are direct subjects of international law especially under certain articles of the International Covenants on Human Rights and under some ILO conventions. Furthermore, it is no longer true that the subjects of the right to development lack international procedural capacity.

Another issue of major significance is the question of whether it is appropriate to describe the right to development as one attaching to individuals or to collectivities, or to both. However, it is probably unnecessary to pose the issue as one involving the choice of mutually exclusive alternatives. The enjoyment of the right to development necessarily involves a careful balancing between the interests of the collectivity on one hand, and those of the individual on the other. It would be a mistake, however, to view the right to development as necessarily attaching only at one level or the other. Indeed, there seems no reason to assume that the interests of the individual and those of the collectivity will necessarily be in conflict. A healthy regard for the right of the individual to pursue his/her self-realization, manifested by respect for this right within collective decision-making procedures which permit the full participation of the individual, will contribute to, rather than weaken, the efforts of the collectivity to pursue its right to development. In addition, individual development and fulfilment can be achieved only through the satisfaction of collective prerequisites.

As was pointed out at the Commission on Human Rights at its thirty-third session, it is difficult to draw a rigid line of demarcation between the right to development of the individual and of the collectivity (E/CN.4/SR.1398, para. 30). For example, on the one hand, the provision of development assistance, the regulation of trade and cooperation on a multiplicity of other issues is conducted, to a great extent, on a State-to-State basis within the international community. On the other hand, insofar as it is possible to devise and apply indicators which can assess the extent of realization of the right to development, these usually utilize the individual as the relevant unit of measurement (e.g., schools per capita, etc.).<sup>22</sup>

It is clear that there is a universal right of all States to pursue their own development in an international

<sup>20</sup> The distinction is considered in some detail and a list of references provided in D.P. O’Connell, *International Law*, 2nd ed. (London, Stevens, 1970), vol. 1, pp. 106-112.

<sup>21</sup> H. Lauterpacht, *International Law and Human Rights* (London, Stevens, 1950), p. 61; see also *International Law: Being the Collected Papers of Hersch Lauterpacht*, E. Lauterpacht, ed. (Cambridge, United Kingdom, Cambridge University Press, 1975), vol. 2, p. 510.

<sup>22</sup> Kéba M’Baye, “Émergence du ‘droit au développement’ en tant que droit de l’homme dans le contexte d’un nouvel ordre économique international”, paper presented to the UNESCO expert meeting on human rights, human needs and the establishment of a new international economic order, Paris, 19-23 June 1978 (paper SS-78/CONF.630/8), p. 5.

environment which is conducive to that process. In addition to the right and duty to eliminate colonialism, apartheid, racial and other forms of discrimination, neocolonialism and all forms of foreign oppression and domination, every State has the sovereign and inalienable right to choose its economic, political, social and cultural system in accordance with the will of its people.<sup>23</sup> This right includes sovereign and permanent control of every State over its natural resources, wealth and economic activities. Similarly, every State has the sovereign right to rule and exercise effective control over foreign investments.

Just as peoples are entitled to self-determination, so too are they among the subjects and beneficiaries of the right to development.<sup>24</sup> In determining what constitutes a “people” in the context of self-determination, the following criteria were proposed:

- (a) The term “people” denotes a social entity possessing a clear identity and its own characteristics;
- (b) It implies a relationship with a territory, even if the people in question has been wrongfully expelled from it and artificially replaced by another population;
- (c) A people should not be confused with ethnic, religious or linguistic minorities, whose existence and rights are recognized in article 27 of the International Covenant on Civil and Political Rights (E/CN.4/Sub.2/404/Rev.1, para. 279).

The rights possessed by peoples are further spelled out in article 3 (e) of the Declaration on Social Progress and Development which affirms “[t]he right and responsibility of each State and, as far as they are concerned, each nation and people to determine freely its own objectives of social development, to set its own priorities and to decide in conformity with the principles of the Charter of the United Nations the means and methods of their achievement without any external interference”.

Minority groups and their members are also among the subjects and beneficiaries of the right to development. In his *Study on the Rights of Persons*

*Belonging to Ethnic, Religious and Linguistic Minorities*, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed the following interpretation of the term “minority”: “A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language” (E/CN.4/Sub.2/384/Add.5, para.10).<sup>25</sup> It may be said that minority groups and their members have a right to share in the development of the whole community, without discrimination.

The preceding analysis has shown that the individual is a subject of the right to development insofar as the entire process of development must be aimed at the spiritual, moral and material advancement of the whole human being, both as a member of society and from the point of view of individual fulfilment. The individual’s right to development includes realization of the entire range of rights specified in the International Bill of Human Rights and elaborated in a variety of resolutions and declarations adopted by United Nations conferences on specific subjects.

## VI. Duties flowing from the right to development

In the previous section, the study considered the subjects and beneficiaries of the right to development. In this section the focus is on the nature of the corresponding duties and the entities on which they fall. The earlier analysis of the individual and collective characteristics of the right to development is also applicable in the context of the duties correlative to the right.

It is a basic principle of international law that States have the duty to cooperate with one another in order to maintain international peace and security and to promote international economic stability and progress free from discrimination.<sup>26</sup> The specialized agencies of the United Nations must also be consid-

<sup>23</sup> Maurice Flory, “Souveraineté des états et coopération pour le développement”, *Recueil des cours* 1974, vol. 141 (I), No. 255, especially pp. 292-302.

<sup>24</sup> In the view of one author the right to development attaches primarily to peoples: “The right to development is for a people what human rights are for an individual. It represents the transposition of human rights to the level of the international community.” Société française pour le droit international, *Rapport du Colloque d’Aix-en-Provence*, 24-26 May 1973, p. 28.

<sup>25</sup> The Special Rapporteur noted that this definition was drawn up solely with the application of article 27 of the International Covenant on Civil and Political Rights in mind. Editor’s note: The study was revised and issued as a United Nations publication in 1979 (Sales No. E.78.XIV.1); see annex II of that publication for a further discussion on the concept of minority and the scope of article 27 of the Covenant.

<sup>26</sup> See, in addition to the Charter of the United Nations, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, General Assembly resolution 2625 (XXV), annex.

ered to have a duty to promote the realization of the right to development. The duties of States in promoting the human right to development have two dimensions, both with international implications. The first aspect of the duty of States relates to the peoples living under their jurisdiction. The right to self-determination, which is stated in article 1 of both International Covenants on Human Rights, imposes on States the obligation to respect the rights of peoples under their jurisdiction to freely choose their political status and freely to pursue their economic, social and cultural development without discrimination on grounds of race, religion or colour. Secondly, in their relations with other States, States have the duty to cooperate to promote universal realization of the right to development.

An even more specific statement of the responsibilities of States is to be found in the Declaration on Social Progress and Development. Article 7 states that the equitable distribution of national income and wealth among all members of society should be a major goal of States. Article 8 refers to the responsibility of Governments in planning social development measures to ensure the progress and well-being of their peoples. In this regard, the responsibility of the Governments of developing countries to utilize development assistance in such a way as to promote the right to development could also be mentioned. In 1970 the Committee for Development Planning<sup>27</sup> expressed the view that an effective international development strategy requires "pervasive reforms and institutional changes" in developing countries in order to create an environment conducive to rapid development.<sup>28</sup> Thus, in the Commission it was said that "it was not enough simply to say that the richer countries had an obligation to assist the poorer countries; the question of what that assistance was used for should also be examined" (E/CN.4/SR.1393, para.18).

It may also be considered that, by accepting and promoting their pre-eminent role in international trade and financial institutions as well as by exercising strong influence over the international transfer of social and cultural mores, the industrialized countries should be expected to accept the concomitant responsibility of promoting the realization of the right to development (E/CN.4/SR.1391, para.13).

The same considerations which apply in relation to the international community in general and to the industrialized States and former colonial States are equally applicable in determining the duties of

regional State groupings. This is in line with the undertaking in Article 56 of the Charter under which all States Members of the United Nations pledge to take "joint and separate" action. Thus, the duties attaching to States in their individual capacities are in no way diminished when they act jointly in the framework of a regional or subregional grouping.

The duty to promote the right to development is of general application, and thus applies to entities such as transnational corporations, producers' associations, trade unions and others. While it appears to be generally accepted that some form of international regulation of the activities of transnational corporations is desirable, it remains the case that a form of regulation "which could make them more acceptable instruments of international prosperity and cooperation has yet to be devised".<sup>29</sup>

The duties of the individual, both to other individuals and to the community to which he/she belongs, require him/her to strive for the promotion and observance of all human rights, including the right to development. The view was expressed by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities that "every capable individual as a basic element of the society has the duty to participate actively in defining and achieving the common goals of social progress and development of the community. These goals include, among others, the establishment of a harmonious balance between scientific, technological and material progress and the intellectual, spiritual, cultural and moral advancement of humanity".<sup>30</sup> Individuals may also be considered to have a further duty. It is generally recognized that efforts to promote the universal realization of the right to development must include endeavours to ensure the prudent use of the world's limited resources. In this connection, a report by a Commonwealth expert group noted that a part of those endeavours must be the quest for greater simplicity in lifestyles, "especially in those developing countries where conspicuous consumption by the few puts at risk the basic well-being, sometimes even the survival, of the many".<sup>31</sup> Accordingly, the report urges peoples in all countries to adopt

<sup>29</sup> Committee for Development Planning, Report on the Fourteenth Session (E/1978/46), para. 27.

<sup>30</sup> "Study of the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights by Erica-Irene A. Daes" (E/CN.4/Sub.2/415), para. 560. Editor's note: subsequently published by the United Nations Centre for Human Rights under the title *Freedom of the Individual Under Law: A Study of the Individual's Duties to the Community and the Limitations on Human Rights and Freedoms under Article 29 of the Universal Declaration of Human Rights*, United Nations Study Series No. 3, 1990.

<sup>31</sup> *Towards a New International Economic Order: A Final Report by a Commonwealth Experts' Group* (London, Commonwealth Secretariat, 1977).

<sup>27</sup> In 1998, the name was changed to the Committee for Development Policy.

<sup>28</sup> United Nations, *Towards Accelerated Development*, p. 5.

the necessary measures of restraint that would allow for the progressive elimination of poverty, a prerequisite for realization of the right to development throughout the world.

## VII. Participation as a central factor in realization of the right to development

Popular participation as an integral part of the development process has long been accepted as an ideal at the international level and is increasingly being incorporated into national development strategies.<sup>32</sup> Similarly, the role of participation in fostering respect for human rights is emphasized in international human rights instruments. The Special Rapporteur of the Commission on Human Rights, Manouchehr Ganji, in his 1969 study *The Realization of Economic, Social and Cultural Rights*, concluded that “the basic principle governing the question of human rights in development should be the participation of the people in deciding their own style of individual and corporate life in general, and in particular their participation in decision-making in connection with development programmes, in the implementation of those programmes and in the benefits derived from them”.<sup>33</sup> Participation should be viewed both as a means to an end and as an end in itself. As a prerequisite for realization of the right to development, it is required at all levels ranging from the local through the regional and national to the international.

The concept of participation is of fundamental importance in the context of international human rights instruments. The need for participation is also a consistent theme in the declarations, recommendations, resolutions and plans of action of a number of United Nations world conferences on subjects such as population, food, habitat, the environment, women and employment.<sup>34</sup>

Participation in the decision-making processes should encompass much more than participation in the political processes; institutions, both public and private, local and national, that affect the lives of individuals must be concerned with development.<sup>35</sup> A United

Nations study concluded that there is little evidence to indicate that popular participation on a sustained basis emerges spontaneously.<sup>36</sup> On the other hand, a study prepared for ILO suggests that participation is more effective where it is endogenous—where it has been demanded and achieved by the participants, perhaps with a struggle, rather than conferred from above.<sup>37</sup> These propositions do not conflict with one another. The needs which emerge are for the fostering of conditions which are conducive to the emergence of participation and for the provision of strong and sustained support for institutions once they have emerged.

The central importance of participation at all levels in order to promote realization of the right to development has thus been widely acknowledged. A report of the United Nations Development Programme indicated that “although there is increasing recognition of the necessity for active participation by the poorer groups in activities aimed at improving their living conditions, progress has been slow” (DP/319/Add.2, para. 64 (i)). Efforts to promote participation are thus crucial to the development process as well as being an essential element in the promotion of human rights.

The international community has an important role to play in fostering the development of participatory institutions at all levels. In addition to setting an example by ensuring that the structure of the international community itself facilitates full and equal participation, the community can provide assistance and encourage the exchange of information between nations and groups. At the same time, it must be recognized that participatory institutions cannot be imported from abroad, but must reflect the needs, traditions and experiences of the local population.

## VIII. Summary and conclusion

The report of the Secretary-General considers the ethical aspects of the right to development, which range from the relatively pragmatic view that it is in the best interests of all States to promote the universal realization of the right, to the view that there are fundamental philosophical values which can be said to underlie the right to development. In addition, the analysis of legal norms relevant to the right has indicated that there is a very substantial body of principles based on the Charter of the United Nations and the

<sup>32</sup> See generally *Popular Participation in Decision Making for Development* (United Nations publication, Sales No. E.75.IV.10) and “Popular participation and its practical implications for development” (E/CN.5/532).

<sup>33</sup> United Nations publication, Sales No. E.75.XIV.2, Part. 6, para. 122.

<sup>34</sup> The approach adopted by these conferences is analysed in document E/6056/Add.1, section IV.P, entitled “Participation in the development process”, paras. 62-64.

<sup>35</sup> *Report of the Seminar on the Realization of Economic and Social Rights with Particular Reference to Developing Countries*, Lusaka, 23 June–4 July 1970 (ST/TAO/HR/40), para. 36.

<sup>36</sup> See *Popular Participation in Decision Making for Development*, p. 63.

<sup>37</sup> Donald Curtis and others, *Popular Participation in Decision-Making and the Basic Needs Approach to Development* (Geneva, ILO, 1978), para. 8.



International Bill of Human Rights and reinforced by a range of conventions, declarations and resolutions which demonstrate the existence of a human right to development in international law.

The report also considers some of the subjects and beneficiaries of the right, on the one hand, and those for whom the right implies duties, on the other hand. The report acknowledges, however, that the analysis undertaken cannot purport to be exhaustive, nor that it is likely to be the last analysis to be undertaken of the full implications of the existence of the right. The right to development, like other human rights, is not to be considered as a static concept but as an evolving one. Changing perceptions of the development process and the emergence of strong recognition of the need to achieve a new international order in social, economic, political and cultural terms have added an extra dimension to the significance of the right to development. It is expected that a more comprehensive appreciation of the implications of the right and a more detailed elaboration of the rights and duties which attach to it would emerge in the course of the next few years.

The report also draws attention to the fundamental interdependence of objectives such as achievement of a New International Economic Order, satisfaction of fundamental human needs and realization of the right to development. In particular, the report emphasizes the central importance of achieving disarmament and the cessation of the arms race as a prerequisite not only for realization of the right to peace but also of the right to development. In addition, it points to a number of specific issues in relation to which the Commission on Human Rights might consider undertaking further study and analysis. Some of these are outlined below.

While the study examines the broad outlines of the human right to development, the precise content of the right can only be determined by a thorough and comprehensive analysis of the diverse sources upon which the right is based. Such an analysis is especially important in the context of identifying, in more specific terms, those entities which are the subjects, beneficiaries and duty holders of the right to development. Thus, in order to clarify further the concept of the right to development and to accord it greater practical significance, further analysis could be directed towards identifying and elaborating some of the specific rights and duties which, on the basis of existing and evolving international instruments pertaining to the right, are to be attributed to all relevant

entities, including the international community as a whole, States, peoples, transnational corporations and individuals. Some materials for an analysis of this type may be found in the survey by the Secretary-General of the "principles, directives and guidelines for action in the field of development" presented to the Economic and Social Council in 1968 (E/4496).

The analysis of the implications of the right to development for official development assistance has indicated that there is considerable international interest in the concept of forging closer links between the promotion of human rights and the provision of official development assistance. In view of the fact that there appears to be no existing comprehensive analysis of the complex issues which arise in this connection, the Commission on Human Rights may wish to consider undertaking a more detailed study of the relevant issues with a view to formulating general principles and criteria which might guide future bilateral and multilateral assistance arrangements, insofar as they seek to promote human rights in general and the human right to development in particular.

The potentially beneficial impact of the activities of transnational corporations is substantial. Nevertheless, certain aspects of their operations have given rise to serious concern. While a number of organs within the United Nations system are at present working on the elaboration of aspects of a code of conduct for transnational corporations, the analysis in the report indicates that much remains to be done in order to clarify the specifically human rights-related obligations of these corporations, both in general terms and in particular situations.

One of the most significant conclusions to emerge from the report is the need to ensure that the promotion of respect for human rights is an integral element in all development-related activities. In this regard, the Commission may wish to consider the most effective ways and means by which the promotion of human rights, including the right to development, might be more fully integrated into the entire range of United Nations development activities. Among the issues of major importance in terms of the right to development which could be considered are: the ways in which human rights, including the right to development, could be given more specific consideration in the context of reports relating to all aspects of development, including, for example, the review of progress in achieving the objectives of the International Development Strategy for the 1980s; the need for improved coordination of the human rights-related

activities of the United Nations system in order to better promote realization of the right to development; the feasibility of establishing a periodic general review or survey by the Secretary-General of trends concerning the implementation of the concept of development as a human right and the integration of human rights standards into the formulation and application of development plans; and the practicability of requiring a "human rights impact statement", which might be similar in concept to an environmental impact statement, to be undertaken prior to the commencement of specific development projects or in connection with the preparation of an overall development plan or programme.

The Commission may wish to consider that a series of interdisciplinary, action-oriented seminars be organized on various aspects of the human right to development such as the integration of human rights standards into the formulation and application

of development plans. Similarly, workshops could be held with the objective of involving the existing United Nations regional commissions in discussions of relevant issues with a view to formulating practical proposals for promotion of the human right to development.

The emergence of the human right to development as a concept of major importance is a reflection of its dynamic character. The continuing evolution of the concept and its translation into a notion capable of providing practical guidance and inspiration, based on international human rights standards, in the context of development activities will depend significantly on the future course of action adopted by the Commission on Human Rights. The report of the Secretary-General outlines some of the major issues in relation to which the Commission may wish to consider taking action.