

Theory into practice: a new framework and proposed assessment criteria

*Susan Randolph and Maria Green**

I. Introduction

The theory and practice of both international development and international human rights have changed dramatically since the General Assembly adopted the Declaration on the Right to Development in its resolution 41/128 in 1986. On the development side, there has been an evolution and expansion of global institutions, a transformation of relevant technologies and a significantly changing natural environment. On the human rights side, global standards and institutions have expanded; the understanding and practice of economic, social and cultural rights in particular has deepened; there has been universal reaffirmation of the interconnectedness of all human rights, including the right to development; and the United Nations and other institutions have created a growing set of tools and concepts for integrating economic, social, cultural, civil and political rights into development and anti-poverty policies and processes.

Throughout this time, even as the right to development has grown in standing as an international human rights norm, it has rarely been used operationally to guide or assess the actions of development actors. This lack of implementation may be attributed in part to the absence of a sufficiently specific and widely accepted

understanding of what actions or outcomes its content is meant to prescribe. It is in response to this absence that, in recent years, substantial attention has been paid to deepening our understanding of the right to development. Since 2005, in particular, the Human Rights Council Working Group on the Right to Development (hereinafter “Working Group”), with the assistance of its high-level task force on the implementation of the right to development (hereinafter “task force”), has undertaken a process of creating and refining a set of criteria for determining whether or not the right to development was in fact being implemented.

This chapter is adapted from a study that we prepared in conjunction with that process. In late 2009, the Office of the United Nations High Commissioner for Human Rights (OHCHR), on behalf of the task force, commissioned us to propose a set of tools for measuring implementation of the right to development as part of contemporary global and national practice. Our charge was to build on the earlier work of the Working Group and the task force and to undertake further research and interdisciplinary discussion to devise a set of right to development criteria, sub-criteria and operational sub-criteria (indicators) that could be used by international organizations, Governments and civil society to define and measure implementation of the right in the current development and human rights environment. We were asked specifically to offer the criteria and indicators in a framework that could

* Susan Randolph is Associate Professor, Department of Economics and Department of Agricultural and Resource Economics, University of Connecticut, United States of America; and Co-Director, Economic and Social Rights Empowerment Initiative. Maria Green is the 2012-2013 Fulbright Lund Distinguished Chair in International Human Rights, Lund University, Sweden.

eventually serve as the basis for the elaboration by the Working Group of formal guidelines for implementing the Declaration on the Right to Development and/or of a legally binding right to development instrument. This chapter is an abridged version of the resulting report (A/HRC/15/WG.2/TF/CRP.5).¹

There was an extensive body of existing work to build on when we began this process.² At the same time, however, there remained a considerable number of conceptual and methodological questions that needed to be addressed before criteria and indicators could be proposed. The sections that follow undertake three separate tasks in answering those questions and providing the criteria and indicators themselves. Section II focuses on establishing the normative content of the right to development. It identifies, and takes a position on, a number of key unanswered questions about the duties the right entails and the modes in which it might be implemented. It then proposes a formal definition of the right and its main elements in the form of a set of time-invariant core criteria for assessing implementation of the right. The subsequent section sets out methodological issues involved in determining time-specific sub-criteria and indicators that reflect current development contexts, and proposes a set of critical guidelines for this process. Finally, section IV provides three exemplars, the first showing how one applies our framework and methodology to define indicators suitable for monitoring implementation of the right to development with regard to a particular pressing current development challenge; the second adapting the primary sub-criteria to the different types of State obligations; and the third applying the full framework and methodology to develop a comprehensive set of indicators for assessing implementation of States' collective obligations under the right to development. Note that both the full

set of initial indicators we have proposed, and which can be found in our full report, and the far smaller set of exemplars offered here are provided in order to demonstrate that relevant indicators can indeed be identified and implemented in a right to development context. The process of deciding on actual indicators would necessarily entail a broad-based consultative process involving both stakeholder participation and sectoral expertise in the various substantive development areas.³

Three points should be emphasized at the outset. First, our approaches and solutions sought to address the essential features of the right to development as defined by the Declaration on the Right to Development and further elaborated to date by the Working Group, the Independent Expert on the right to development and the task force, while taking into account at the appropriate places the priority concerns of the international community, particularly those expressed by the Working Group at its earlier sessions. Second, we sought to firmly anchor our approaches and solutions simultaneously in contemporary international human rights law, theory and practice on the one hand, and in contemporary development theory and practice on the other. Finally, we sought to ensure that the proposed criteria, sub-criteria and indicators would serve as practical tools that stakeholders at various levels—international organizations, Government officials and civil society—could readily use to evaluate compliance of their policies and initiatives with the right to development.

II. Contours of the right to development

The right to development does not slot in easily beside other internationally recognized human rights; it covers a broader territory than most other human rights, and the text of the Declaration raises a tangle of conceptual and practical questions about implementation as well as content. Considerable work, both before and after the adoption of the Declaration itself, has been put into defining the normative content of the right.⁴ In recent years, the United Nations sys-

¹ An earlier version of the study served as the basis of discussion for the expert consultation on the elaboration of criteria and operational sub-criteria for the implementation of the right to development held at Cambridge, Massachusetts, United States, on 17 and 18 December 2009 (see A/HRC/15/WG.2TF/CRP.4). The final report was subsequently presented and discussed at the sixth session of the task force, in 2010 (see A/HRC/15/WG.2/TF/2, sect. IV.D).

² Of particular note here is the work of the Independent Expert on the right to development, Arjun Sengupta; other studies commissioned to support the work of the task force, most particularly "Implementing the right to development: a review of the task force criteria and some options" by Rajeev Malhotra (A/HRC/12/WG.1/TF/CRP.6), which appears, updated, as chapter 28 of this publication; existing United Nations work on human rights indicators, most particularly the "Report on indicators for promoting and monitoring the implementation of human rights" (HRI/MC/2008/3) prepared by OHCHR (editor's note: that report provided the basis for the publication *Human Rights Indicators: A Guide to Measurement and Implementation* (HR/PUB/12/5), issued in 2012); and parallel contributions by academia and civil society, including the compilation of essays edited by Bård A. Andreassen and Stephen P. Marks titled *Development as a Human Right: Legal, Political, and Economic Dimensions* (Cambridge, Massachusetts, Harvard University Press, 2006). Further background bibliography can be found in the full report.

³ The preliminary indicators proposed in this chapter benefited from the expert consultation sponsored jointly by OHCHR; the Program on Human Rights in Development, Harvard School of Public Health; and the Measurement and Human Rights Program, Harvard Kennedy School. A subsequent discussion at the Faculty Colloquium of the Program on Human Rights and the Global Economy at Northeastern School of Law in Boston also provided valuable commentary.

⁴ See, for example, "The international dimensions of the right to development as a human right in relation to 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: report of the Secretary General" (E/CN.4/1334) (1979);

tem in particular has undertaken a concerted attempt to bring the content of the right to development to the kind of clarity that would enable Member States, United Nations agencies and other international institutions and actors to integrate the standard effectively into their arrangements and practices. Among the steps taken are the appointment by the Commission on Human Rights, precursor to the Human Rights Council, of an Independent Expert on the right to development and the creation of the Working Group on the Right to Development and the high-level task force on the implementation of the right to development, made up of independent experts, to assist the Working Group in clarifying and making operational the norms contained in the Declaration. Between them, and with additional contributions from academia, civil society and the United Nations Secretariat, the world community has taken sizeable strides in delineating the elements of the right and what it means to implement those elements at the national and international levels.

Despite these advances, however, the right to development is in many ways still in a formative stage, with no established consensus on the meanings and practical implications of some of its constituent elements. Prior to proposing practical means of measuring implementation of the right to development, we needed to settle a number of practical and conceptual questions about the right. At the most basic level, there is a lack of clarity as to the nature and scope of the duties laid out in the Declaration. But there are also other key conceptual questions, starting with who holds the right and whose obligation it is to fulfil the right. In developing criteria, sub-criteria and indicators for assessing implementation of the right, we needed to identify and clarify a number of issues around which there might be confusion and to take a position on those issues that were not yet settled. This, in turn, meant first exploring, at a fundamental level, what the right to development adds, normatively and conceptually, to the landscape of both development and human rights practice, as that necessarily informs the positions taken when there are multiple options available.

In what follows, we discuss the value-added concepts that shaped our thinking and then define the contours of the right to development on two planes:

"The realization of the right to development: Global Consultation on the Right to Development as a Human Right: report of the Secretary-General" (E/CN.4/1990/9/Rev.1); "Implementing the right to development in the current global context", sixth report of the Independent Expert (E/CN.4/2004/WG.18/2); and Andreassen and Marks, *Development as a Human Right*.

general principles of implementation, which address underlying practical and conceptual questions that must be answered before implementation can be assessed; and specific normative content, which delineates the substantive elements of the right.

A. What the right to development adds

The ways in which one interprets the right to development are necessarily influenced by, even predicated on, what one understands the value of the right to be; that is, what one understands the right to offer in the larger landscape of development and human rights standards and practice. In this section we make explicit the understandings of this value that shape our later decisions concerning the contents of the right and how their implementation is best to be measured.

There are a number of different ways in which we think the right to development, when more fully operationalized through projects like creating assessment tools, could contribute to international development practice and accordingly foster more rapid gains in global development and/or contribute to international human rights practice and the realization of the internationally recognized rights of all. We identified four in particular that helped us to conceptualize measuring the implementation of the right. These are:

1. *Collective obligations.* The right to development's focus on collective obligations begins to loosen the link between the level of human rights or development enjoyed by a person and the resources of the State in which he or she resides. The collective obligation does this in a couple of ways. First, it requires that States take into account, when acting together, the impact of their collective policies and actions on the development prospects of other States, especially those States with relatively few resources per capita. Second, it provides a normative standard against which to assess the processes, policies and programmes of the international institutions that are collectively controlled by States; that standard is the extent to which they foster the different elements of the right to development. Thus, staff members at multi-lateral institutions whose activities have an important bearing on development, such as the Bretton Woods institutions, regional development banks, the World Trade Organization (WTO) and United Nations institutions, can legitimately understand that their mandates are to be interpreted in the light of the right to development and, accordingly, that their policies and processes are legitimately to be assessed by the extent

to which they reflect the different elements of the right. Similarly, member States and civil society have a legitimate basis to examine the institutions in the light of the standard and to seek change when the standard is not being met.⁵

2. *Equity.* A second contribution of the right to development is that it obligates States to take more explicit account of equity at both the international and national levels. Although other existing international human rights instruments are strong with regard to non-discrimination, they are generally less forceful on the notion of equity, particularly at the international level. The right to development's focus on equity goes beyond protecting the rights of the most vulnerable, which is a central feature of the wider body of international human rights law. The emphasis in the Declaration on the Right to Development on international cooperation to remove obstacles to development and share benefits of development requires that international decisions take into account their impact on all people, not just the well-being of those people living in the most powerful and wealthy States. While the text of the Declaration is not entirely explicit with regard to equity, the jurisprudence that has developed around the right, including the reports of the Independent Expert and the criteria already adopted by the task force, suggest that it offers a basis for a legitimate claim not only for equal treatment as consistent with non-discrimination, but also for international and national decisions to be consistent with global social justice.

3. *Human rights-based approaches to development.* A third major contribution of the right to development is that it affirms that human rights goals and processes are to be integrated into the entire development endeavour. The right to development thus not only lends normative weight to the growing set of conceptual and practical tools for integrating human rights into development—a collection of tools that is generally subsumed under the term “human rights-based approaches to development” or “rights-based approaches to development”—but also brings these tools to a wider range of institutions and systems, both nationally and internationally.⁶ The fact that the

human rights-based approach has been developing for a number of years, most particularly in the United Nations system since the Secretary-General's directive concerning mainstreaming of human rights and the adoption in 2003 of the United Nations “Statement of common understanding on human rights-based approaches to development cooperation and programming”,⁷ also means that there is already a well-established series of modalities for thinking about the role of human rights in development on which any right to development measurement tools can readily build. A core concept is that human rights goals and cross-cutting human rights principles (non-discrimination, participation, access to information and means of effective complaint and remedy) are relevant at all stages—assessment, planning, implementation, monitoring and evaluation—of development-related policies and programmes.

4. *Bringing human rights into the discourse of mainstream economics.* Finally, the right to development provides additional normative support for integrating the human development approach into mainstream economics at both national and international levels. That is, rather than focusing nearly exclusively on growth, as economists commonly do, the right to development legitimizes a more direct focus on how the processes affect people's lives. The promotion of per capita income growth, although remaining critical, becomes subservient to improving human well-being.

With these four major contributions of the right to development to development and human rights practice in mind, we then turned to some open questions that we knew needed to be resolved in order to sort out a working set of contents of the right itself. These questions and our solutions are set out below.

B. General principles of implementation

Implementation of the right to development has been hindered by lack of clarity around core aspects of the right, e.g., is it like any other human right, in which the duty holders are national Governments and the right holders are individuals or groups? Or is it anomalous, implicating different rights bearers and different duty holders? In determining criteria, sub-criteria and indicators for assessing implementation of the right we needed to identify potential points of confusion and, where the answer was unfixed, to take a position one way or the other. Our framework pro-

⁵ Note that a collective obligations approach to human rights and multilateral institutions continues to place the ultimate responsibility under the right on the member States; that is, it does not suggest that the multilateral institutions themselves are direct duty holders under the right to development. It thus fits well into the standard human rights paradigm in which States are the principal duty holders.

⁶ The human rights-based approach has been well grounded in the Universal Declaration of Human Rights and in the core human rights treaties, but the right to development also provides a suitable normative location. For the extensive collection of human rights-based tools, see <http://hrbaportal.org/>.

⁷ Available from <http://hrbaportal.org/>.

poses seven principles of implementation. They are listed and discussed in turn below. All of these principles are either explicit in, or consistent with, the text of the Declaration.

Principle 1. The right is a right of peoples and of individuals. There is a rebuttable presumption that in international transactions and contexts, States represent the collective rights of the peoples and individuals under their jurisdiction.

Given that so much of development involves action among States (trade agreements, international assistance, etc.) it is important to address how the right to development's right holders, who are not States, are represented in international arenas. The principle adopted here is that in the State-driven world of international development practice, it is logical for States to be presumed to represent the collective rights of those under their jurisdiction. However, this presumption can be challenged in the rare situations where there is overwhelming evidence that State representatives are unwilling or unable to fulfil the core functions of Government.⁸

Principle 2. Three kinds of State obligations are implicit in the right to development: obligations of collective action at the regional and global levels; obligations of individual action with regard to peoples and individuals outside a State's jurisdiction; and obligations of individual action with regard to peoples and individuals within a State's jurisdiction.

This principle recognizes the different forms of obligations addressed in the Declaration. Three classes of obligations are indicated in the Declaration: collective obligations of States; external obligations of individual States; and internal obligations of individual States. Each of these entails a different system of implementation and assessment.

The Declaration explicitly addresses the collective actions of States; and indeed, institutions and policies created by States acting collectively, e.g., global and regional financial, trade and development institutions, have a profound impact on development. To ignore the impact of collective institutions and policies is to ignore key drivers and, in some cases, key impediments to the development of many countries. While individual States can influence international institutions and policies through, for example, their voting practices in such institutions, in practice an individual State's influence may be limited in these contexts. Assessing the collective implementation of the right to development requires specifically mea-

suring the extent to which international policies, institutions, processes and programmes that are under the collective control of States serve to further the undertakings set out in the Declaration. It also spotlights gaps in the international architecture that impede the undertakings set out in the Declaration.

In other words, assessment of the collective obligations of States looks not to the actions of any given State, but rather to the adequacy and processes of international institutions themselves. Criteria and indicators relevant to assessing this type of obligation can be used by the governing bodies and Secretariats of these international bodies to assess the adequacy of their development-related processes and practices, as well as by other stakeholders. For instance, if the right to development requires that States collectively undertake to ensure that development processes are congruent with human rights norms like transparency and means of remedy, then staff members at international institutions such as the World Bank or the International Monetary Fund (IMF) could use right to development criteria and indicators to assess the adequacy of their own institution's policies around transparency or around mechanisms for stakeholders to access remedies. Along these lines, adoption of the human rights-based approach to development in the United Nations system has provided its agencies with occasions to consider principles of transparency, accountability and so forth in their own work and products.⁹ Right to development criteria relevant to assessing States' collective obligations can also be used by other stakeholders and advocacy groups to design and inspire changes in programmes, policies and practices of regional and global institutions that better ensure the right to development. Finally, criteria and indicators relevant to assessing the collective obligations of States also provide a way for the global community to assess outcomes with an eye to learning whether the global architecture and processes in place effectively foster human development.

The Declaration addresses both national and international processes and thus is concerned with both how each State acts individually with regard to those under its jurisdiction as well as individually with regard to peoples and individuals in other countries. The relevance of a country's actions to the well-being of its own citizens is obvious and need not be dwelled

⁸ This is analogous to proposals for determining circumstances that might trigger a "responsibility to protect" standard in the case of natural or man-made disasters.

⁹ For a practical example of a process for integrating human rights into an international organization's development tools, see Maria Green, "Applying a human rights based approach to UNDP's MDG needs assessment models", guidance note prepared for the Poverty Reduction Group and the Democratic Governance Group of the United Nations Development Programme, 2008.

upon. The actions of each State towards those in other countries are also straightforwardly included in the Declaration because the actions of a given State can profoundly impact development processes beyond its own borders through, for example, its votes in international organizations, or via decisions regarding, for example, trade or aid policies. Furthermore, some formally domestic actions by States, such as interest rate decisions or subsidies for domestic industries, have sizeable implications for individuals, groups of individuals or peoples in other countries, even to a global level. Roles of Governments with regard to the extraterritorial activities of businesses domiciled in their jurisdiction can also fall into this category.¹⁰

The nature of the two kinds of individual obligations differs. States have highly developed duties under international human rights standards towards those under their jurisdiction while their duties towards those not under their jurisdiction are less clearly developed, and there remain ambiguities regarding State obligations when domestic and external interests conflict. Although the Declaration does not specify the emphasis to be placed on a State's internal obligations relative to its external obligations when they conflict, one might readily argue that when an action has limited benefit for those under a State's jurisdiction or only benefits those best off within the State, but the action has pronounced adverse consequences for individuals or peoples, especially those worst off, residing in other States, the State should refrain from taking such an action. Even though the relative weight to be placed on the two types of obligations remains unclear, the obligation to take into account the interests of both those individuals and peoples within and outside a State's jurisdiction is clearly specified in the Declaration and further elaborated in the right to development literature.

Principle 3. Implementation of the right includes not only establishing and implementing formal structures for the improvement of well-being, but also choices of action within those structures. That is to say, the right to development involves not just the rules of the game, but also the practice on the field.

This principle speaks to a concern sometimes raised that human rights advocates or specialists working on development institutions are prone to focus on formal structures to the exclusion of informal systems

of decision-making.¹¹ For instance, the equity issue in a trade dispute between a powerful country and a weaker trading partner might not lie in the formal content of the trade standard involved or in the formal rules determining access to dispute resolution mechanisms, but rather in the choices of the more powerful country about when to make use of available mechanisms and why.

Principle 4. The right entails obligations on all States, regardless of their level of development.

This principle speaks not only to the obligations of all States to the peoples and individuals under their jurisdiction, but also to the external obligations of all States. That is, it asserts that under the right to development, all States, whatever their level of development, have internal obligations; and that international obligations apply not only to wealthier States but also, for instance, to middle- and low-income countries in relation to each other. This reflects the straightforward fact that decisions by a middle-income country on, for example, textiles policy can have deep impacts on the well-being of people in a relevant low-income country.

Principle 5. Implementation of the right is properly assessed through examination both of conduct and of result.

This is consistent with how implementation of other human rights instruments is currently assessed. For example, the general comments issued by the Committee on Economic, Social and Cultural Rights, which is charged with monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights, clearly direct States to put plans, measures and processes in place that respect, protect and promote economic, social and cultural rights and also hold States accountable to reach outcomes by progressively realizing the rights guaranteed in the Covenant.¹²

Principle 6. The right does not exist in isolation either from other aspects of international human rights law and practice or from international consensus around effective development policy and practice; and implementation at any given time is appropriately shaped by current developments in both.

Existing human rights principles assert all human rights to be indivisible, interdependent and inter-related. There is no reason to exclude the right to development in this regard, and in fact a key aspect of

¹⁰ See "Guiding Principles on Business and Human Rights: implementing the United Nations 'protect, respect and remedy' framework": report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie (A/HRC/17/31, annex). The Human Rights Council, at its seventeenth session in 2011, endorsed the Guiding Principles in its resolution 17/4.

¹¹ See, for example, Andrew T. Lang, "Rethinking trade and human rights", *bepress Legal Series*, paper 1685 (2006). Available from <http://law.bepress.com/cgi/viewcontent.cgi?article=7916&context=expresso>.

¹² See, for example, general comment No. 3 (1990): The nature of States parties' obligations (art. 2, para. 1, of the Covenant).

the right to development is that it holistically addresses many of the rights enunciated in multiple treaties and other instruments forming the corpus of international human rights law. The body of international human rights law continues to grow and with it specific codification and clarification of various rights issues that are relevant to the right to development.

International consensus around effective development policy and practice also change as development theory evolves in response to evidence-based studies. For example, it was long held that growing inequality within countries was functional to growth in the early stages of development given the necessity of amassing savings to get growth under way, but that inequality would quite automatically decrease in later stages of growth.¹³ However, this consensus has now been turned on its head: it is now widely agreed that equality facilitates growth and promotes other aspects of human well-being at the national level.¹⁴ And there is an emerging consensus that inequality induces global financial instability.¹⁵ Effective sub-criteria and indicators for assessing implementation of the right to development at any given time must reflect current consensus about the factors that promote and impede human development at both the national and international levels.

Principle 7. Particular focus areas for assessment of the implementation of the right will vary from time to time in accordance with changing priority areas of concern at the national and international levels.

The factors that promote and impede development cannot easily be enumerated. Some development challenges persist through the ages and manifest themselves in the same manner over time. Other challenges persist, but manifest themselves in different forms. For example, the challenge of poverty has persisted throughout time and has always manifested itself in excess morbidity and mortality. Global economic instability has proven to be a recurrent obstacle to development, but this instability has expressed itself

principally as a global financial crisis in some periods and a global food crisis in others. Further, new challenges will likely emerge over time. We are only now beginning to fully understand the challenge that climate change poses to development. It is not feasible or reasonable to try to assess the extent to which all potential obstacles to development are being addressed by States or the extent to which States have collectively and individually taken all measures and put into place all policies that might promote development. Assessment of the implementation of the right to development must necessarily focus on those development challenges that are most pressing at any given time.

The above principles are reflected in the following sections of the chapter, which address, respectively, the normative contours of the right and the use of criteria and indicators to measure its implementation.

C. Specific normative content of the right to development

A number of different definitions of the right to development have been proposed, and there is at this point no single settled definition in international human rights practice.¹⁶ As it is, however, impossible to measure implementation of the right without defining the content of the right, this section sets out the framework that we devised to shape the choice of measurement tools and explains the reasoning behind it.

1. Goals of the framework

In seeking to establish a framework that would elaborate the content of the right in the context of criteria for assessing implementation, we were looking for three elements:

- (a) Definitional language that would:
 - (i) Provide an overarching principle that could serve as a steady reference point for resolving ambiguities in the text, similar to the way in which the principle of "human dignity" serves as a steady reference point for the Universal Declaration of Human Rights;

¹³ Simon Kuznets first posited that inequality would initially rise but subsequently fall in the course of secular income growth in "Economic growth and income inequality", *The American Economic Review*, vol. 45, No. 1 (March 1955), pp. 1-28. Theoretical models of the factors that could initiate and sustain growth at the time, such as that posited by Arthur Lewis in "Economic development with unlimited supplies of labour", *The Manchester School*, vol. 22, Issue 2 (May 1954), pp. 139-191 supported this conjecture.

¹⁴ See, for example, P. Aghion, E. Caroli and C. García-Peñalosa, "Inequality and economic growth: the perspective of new growth theories", *Journal of Economic Literature*, vol. 37, No. 4 (1999), pp. 1615-1660.

¹⁵ Inequality was singled out at the 2011 World Economic Forum in Davos, Switzerland, as a key source of the asset bubbles that triggered the recent global financial crisis. See, for example, Phillip Aldrich, "Davos WEF 2011: wealth inequality is the 'most serious challenge for the world'", *The Telegraph* (London), 26 January 2011.

¹⁶ See, for example, Andreassen and Marks, *Development as a Human Right* (footnote 2).

- (ii) Break the right down into several distinct components and sub-components that would provide coherent categories by which to group specific obligations, in order to help States and other actors to clearly understand the nature and scope of the duties involved; and
 - (iii) Clarify the relationship of the right to other international human rights, as this is a regular source of confusion with regard to implementation;
- (b) Clear organizational categories that would draw a distinction between:
- (i) The fundamental elements of the right, which do not change; and
 - (ii) The particular ways in which those elements play out under the prevailing circumstances, priorities and theory at any given time;
- (c) Explicitly identified areas of action that could give rise to specific measurement tools that would help Government officials, staff at international organizations and members of civil society to implement the right to development in practical ways during the day-to-day planning, implementation, monitoring and evaluation of development policies and programmes.

The reasons for this approach are fundamentally practical: the operational space covered by the Declaration on the Right to Development is vast, potentially encompassing all of national and international economic and social policy on the one hand and all of international human rights standards and practices on the other. Any attempt simply to catalogue the individual actions implied by the right, one after the next, would yield a document that was as impractical as it was long. At the same time, given that development theory and practice are moving targets, there needs to be a generative process by which constant normative standards give rise to measurement tools that are appropriate for the time that the measurement takes place. These measurement tools in turn need to be useful to practitioners in their everyday work. The goals of the measurement tools are set out in more detail in section III below, but it is worth noting here that we were not seeking to craft tools that would be used to rank countries comparatively (as, for instance, the

Human Development Index does). Rather, the specific measurement tools are meant to help all of the different actors to assess their own and other's actions through a commonly agreed-upon set of relevant metrics.

In pursuing this approach, we sought as far as possible to build upon definitions, categories and vocabulary that had already been adopted by the Working Group or the task force. In particular, the terms "criteria" and "sub-criteria" and "operational sub-criteria" were already in play, and we maintained that terminology while exploring the categories that the Working Group and task force had considered to that point. In our work "core criteria" refer to the timeless, broad objectives against which implementation of the right to development is to be assessed, while the "primary sub-criteria" under each criterion identify the major elements of that criterion. "Lower-level sub-criteria" concretize the primary sub-criteria with regard to the current historical context and are subject to change over time. "Operational sub-criteria" effectively translate into quantitative and qualitative structural, process and outcome indicators.

In order to build a framework that accomplished the goals set out above, we developed a hierarchy of criteria and sub-criteria along two separate but inter-related dimensions.¹⁷ First, we turned to the analysis of the right to development that the Working Group had recently adopted. The Working Group divided the right to development into three primary components—"enabling environment," "comprehensive development" and "equity and social justice"—and specified some 20 associated criteria that had been proposed by the task force (see A/HRC/12/WG.2/TF/2, annex IV). Second, we turned to the pressing development concerns identified by the Working Group along with those reflected in Millennium Development Goal 8 and identified the broad categories of overarching development issues they fell within. We then grouped together, under each of the broad categories, the relevant pressing current concerns identified by the Working Group and as part of Millennium Development Goal 8 along with pressing development concerns of past decades and additional development concerns we could anticipate might emerge as particularly pressing in the future.

Our working understanding of the substantive content of the right to development weaves together

¹⁷ Our thinking in this context was shaped greatly by Rajeev Malhotra's paper, "Implementing the right to development: a review of the task force criteria and some options" (A/HRC/12/WG.2/TF/CRP.6).

the criteria and sub-criteria that emerged in these two dimensions. Its foundation is the text of the Declaration itself; and on those aspects where the Declaration is unclear, it looks to the ideas and principles set forth in sections A and B above. In structuring our working understanding of the substantive content of the right to development, we sought to characterize the contours in terms of obligations as well as outcomes. While it was relatively straightforward to sort out the three types of obligations—collective, individual-external and individual-internal—for the second two of the primary criteria for the right to development identified by the Working Group, it was difficult to do so for the first, “enabling environment”, as this criterion is cross-cutting and characterizes a general obligation that subsumes the other two rather than running parallel to them. We reorganized to reflect this, and the result is that our proposed set of specific contents of the right to development specifies an overarching principle, a general obligation and three core criteria. Taken together, they still reflect the essential content of the three categories already adopted by the Working Group.

Underneath the core criteria are primary sub-criteria, which are narrower criteria that specify the major elements of the core criteria. Together, the core criteria and primary sub-criteria incorporate the 20 task force criteria adopted by the Working Group. States have collective, individual-external and individual-internal obligations under each of the core criteria and primary sub-criteria, although some of the primary sub-criteria are more relevant to one type of State obligation than another. The citations referenced in laying out the overarching principle, general obligation and core criteria and primary sub-criteria below, are to the supporting provisions in the Declaration itself and the 20 task force criteria adopted by the Working Group.

2. Content of the right to development

Overarching principle. States Members of the United Nations, in agreeing to implement the Declaration on the Right to Development, undertake to act individually and collectively to ensure continual improvement in the well-being of peoples and individuals.¹⁸

General obligation. To this end, they undertake to ensure, at both international and national levels, an enabling environment that, by removing obsta-

cles and creating opportunities, fosters the ongoing, sustainable and equitable development of individuals and peoples in an environment of peace and security, and in accordance with internationally recognized human rights standards.¹⁹

Core criteria. Specifically, they agree to establish, promote and sustain national and international arrangements, including economic, social, political and cultural policies, institutions, systems and processes, that:

- (a) Promote and ensure sustainable, comprehensive human development in an environment of peace and security;²⁰
- (b) Are shaped by, and act in accordance with, the full range of international human rights standards, while also promoting good governance and the rule of law;²¹
- (c) Adopt and implement equitable approaches to sharing the benefits of development and to distributing the environmental, economic and other burdens that can arise as a result of development.²²

Primary sub-criteria. For each of these core criteria, we set out major elements, or primary sub-criteria, that are likely to remain stable over time. These are as follows:

- (a) Major elements of ensuring sustainable, comprehensive human development in an environment of peace and security include ensuring, at both national and international levels, the following:
 - (i) A stable economic and financial system;²³
 - (ii) A rule-based, open, predictable and non-discriminatory trading system;²⁴
 - (iii) Access to adequate human and financial resources;²⁵

¹⁹ Working Group broad criteria; Declaration, arts. 2 (2), 2 (3) and 7; task force criterion (f).

²⁰ Task force broad criteria; Declaration, arts. 2 (2), 2 (3), 4, 7 and 8; task force criteria (f), (n) and (p).

²¹ Declaration, arts. 2, 3 (3), 6 and 9 (1); task force criteria (k), (l) and (m).

²² Declaration, arts. 2 and 8 (1); task force criteria (f), (h), (i), (o), (r), (s), (t) and (u).

²³ Task force criterion (j).

²⁴ Task force criterion (h).

²⁵ Declaration, arts. 3 (3), 4 and 6; task force criterion (g).

¹⁸ Declaration on the Right to Development, preamble, arts. 1 (1), 2 (2), 2 (3), 4 and 10.

- (iv) An environment of peace and security (including in the contexts of armed conflict, post-conflict situations, and personal security from gender-based violence and other forms of violent crime);²⁶
 - (v) Access to the benefits of science and technology;²⁷
 - (vi) Environmental sustainability and sustainable energy policies and practices;²⁸
 - (vii) Constant improvement in economic and social well-being;²⁹
 - (viii) The creation and monitoring of development strategies;³⁰
- (b) Major elements of ensuring that policies, institutions and processes are shaped by, and act in accordance with, the full range of international human rights standards at both national and international levels and promote good governance and law include:
- (i) Ensuring that the goals of development-related policies and strategies are shaped by international human rights standards;³¹
 - (ii) Ensuring the integration of the cross-cutting norms of non-discrimination, participation, access to information and access to means of effective complaint and remedy into development-related policies, institutions and processes, noting that they should be reflected in all stages—assessment, planning, implementation, monitoring and evaluation—of development-related policy and programming;³²
 - (iii) Attention to rule of law and anti-corruption measures;³³
- (c) Major elements of adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic and other burdens that can arise as a result of development include the following:
- (i) Ensuring that the benefits stemming from trade, economic growth, scientific advancement, etc. do not accrue purely in proportion to the political or economic bargaining power of particular parties or groups;³⁴
 - (ii) Ensuring that any burdens caused by development, including environmental and other damages and costs of economic transformations, are equitably distributed;³⁵
 - (iii) Ensuring attention to and care for the needs of the most vulnerable or marginalized individuals or groups.³⁶

The above framework represents the normative space and the substantive categories that we understand to make up the right to development. It, in turn, is the basis for determining specific measurement tools—lower-level sub-criteria and indicators—that reflect the particular circumstances of the world and of nations at any given time. Those are presented below.

3. Lower-level sub-criteria and indicators

A hierarchical set of lower-level sub-criteria translates the above core criteria and their major elements (primary sub-criteria) into processes and outcomes that are measurable and can be used to assess implementation of the right to development for each of the States' three types of obligations: collective obligations of States, internal obligations of individual States and external obligations of individual States. Unlike the core criteria and primary sub-criteria specified above, however, the relevance of the various lower-level sub-criteria is expected to

²⁶ Declaration, art. 7; task force criteria (n), (o) and (p).

²⁷ Declaration, arts. 3 (3), 4 and 6; task force criterion (g).

²⁸ Task force criterion (f).

²⁹ Declaration, art. 2 (3).

³⁰ National level only—Declaration, arts. 2 (3) and 10; task force criteria (k) and (m); economic, social and cultural rights jurisprudence.

³¹ Declaration, arts. 1, 3 (3), 6 and 9 (2); task force criteria (a), (b) and (c).

³² Declaration, arts. 3 (3), 6 and 9; task force criteria (a), (b), (c), (d), (i) and (m).

³³ Declaration, arts. 2, 3 and 10 per the task force criteria; task force criteria (l) and (m).

³⁴ Declaration, arts. 2 and 8 (1); task force criteria (f), (h), (i), (o), (r), (s), (t) and (u).

³⁵ Ibid.

³⁶ Ibid.

vary over time, and so too will the relevance of indicators monitoring the implementation of the specific aspects of the right to development that these sub-criteria embody.

This is because, as noted earlier, while some development challenges have persisted over time (poverty), others are met (eradication of smallpox) and new challenges emerge (mitigating climate change). Our understanding of the interrelationships between the political, economic and social factors that impinge on development at both the global and national levels continues to evolve, and indeed those relationships themselves can change. For example, although climate perturbations have long influenced food security, the current global food crisis is in part a consequence of efforts to address climate change by developing biofuels; competition between food production and fuel production was not an issue in the past.

The global architecture has also evolved over time. There has been a blossoming of development partnerships since the birth of the United Nations and the Bretton Woods institutions, and these institutions have evolved in their focus and complexity as well. The international development architecture will continue to evolve to meet current and future development challenges.

For these reasons, the lower-level sub-criteria and indicators used to assess compliance with the right to development must be specific to the current development context, even as the core criteria and primary sub-criteria remain constant. In addition, the lower-level sub-criteria and indicators must effectively translate the core criteria and primary sub-criteria into measurement tools that are relevant for each of the three different obligations of States (collective, individual-internal and individual-external).

Once the decision has been made to translate constant norms into time- and context-specific lower-level sub-criteria and indicators, a number of normative and technical questions arise as to how the specific sub-criteria and indicators are to be determined. These questions are explored in section III below, along with the approaches that we adopted towards them. In section III we provide examples of lower-level sub-criteria and indicators that reflect those approaches.

III. Methodological issues in determining lower-level sub-criteria and indicators for measuring implementation of the right to development

This section addresses three questions: first, the goals of measurement and how they are reflected in the choice of measurement tools; second, technical issues involved in determining appropriate measurement tools; and finally, process issues involved in determining which tools to adopt in national and international mechanisms or systems concerning the right to development.

A. Three goals for measurement tools

The choice of measurement tools for assessing implementation of the right to development is not something to be undertaken lightly. Experience tells us that the decision of what to measure has real impacts on action. Efforts directed at assessing implementation of the right to development serve three main purposes. The first is to clarify State obligations under the right to development, the second is to assess compliance with those obligations, and the third is to assess the adequacy of the current international architecture with regard to fulfilling the right to development. The first purpose, clarifying State obligations, requires prescriptive or forward-looking indicators. The second and third, assessing compliance and the adequacy of the international architecture, require outcome-focused, or backward-looking, indicators.

Consider the issue of sharing the benefits of international trade more equitably. Tracking indicators such as “the ratio of tariff revenues received by a given country from countries with lower per capita income levels to tariff revenues received from countries with higher per capita income levels” can tell us whether that country has adopted trade policies that remove obstacles to poorer countries’ exports, thus enhancing their opportunities for development. Tracking the average of this ratio across countries can tell whether the full set of global institutions governing trade flows is leading to a distribution of the benefits from trade that favours less developed countries and thus promotes global equity. These backward-looking indicators are the sorts of indicators that assess the outcome or results of efforts to implement the right to development. One might argue that outcome indicators are redundant since other

monitoring programmes in place, with a narrower focus, can provide a richer set of indicators for the specific aspect of global development performance within their narrow mandate. However, there are outcomes of concern to the right to development that are not monitored under other instruments, and some outcomes relevant to the right to development are the result of multiple actions on multiple fronts. If the outcomes are not tracked, the complementarities or synergies between policies and practices would be ignored in assessing the implementation of the right to development. Without considering the full range of issues relevant to the right to development, it is difficult to discern whether changes in the global architecture might better ensure realization of the right and, if so, the sorts of changes most likely to further achievement of the right.

At the same time, backward-looking indicators are often silent when it comes to specifying the actions that States in their various capacities should undertake to implement the right to development. Human rights lawyers tend to favour indicators that specify such actions. When it comes to assessing whether the policies, processes and measures undertaken by global institutions governing trade, such as WTO, are consistent with the right to development, they might suggest an indicator such as, "Has the WTO Secretariat produced and made publicly available a plan for improving informed participation by less wealthy countries in trade negotiations?" Although an indicator of this sort tells us nothing about the quality of the plan it addresses, it provides a point of entry for requesting that WTO provide and make public such a plan and for calling forth public debate regarding its adequacy.

Backward-looking (outcome) and forward-looking (prescriptive) indicators both have an important role to play in assessing implementation of the right to development. Forward-looking indicators specify the kinds of action that States need to take individually and the kinds of action they need to promote through their involvement in international organizations. Backward-looking indicators assess whether the actions taken have led to the desired outcomes, and indeed whether global partnerships and the international infrastructure as a whole meet the dictates of the right to development. Furthermore, the two sorts of indicators are mutually reinforcing. Changes in outcomes feed back into defining the nature of the actions needed. Our scheme therefore accepts a role for both forward-looking and backward-looking indicators.

B. Technical issues in defining measures for assessing implementation of the right to development

As mentioned earlier, the potential terrain covered by the right to development is enormous. Virtually any programme or policy a State or international body undertakes can impact the development prospects of some person, somewhere. Indicators to monitor it could in principle encompass not only the existing tools for monitoring all existing international human rights standards as they are relevant to development contexts (including all of the oversight tools established by the United Nations human rights treaty bodies, the universal periodic review process of the Human Rights Council and regional human rights oversight mechanisms), but also all the existing tools available for monitoring economic and social policies and practices at the national and international levels (including both systems established for monitoring global commitments, such as the Millennium Development Goals or Education for All, and narrower reporting regimes established through, e.g., environmental treaties). That is clearly neither desirable nor practical. In this section we set out the technical issues that we considered in deciding what indicators were appropriate to measure the right to development, along with the approaches that we adopted on these issues and the reasoning behind them.

Identifying measures to assess compliance with the right to development required that we narrow the range of our focus to the most pertinent development challenges. Identifying lower-level sub-criteria and indicators required that we illuminate the context of those development challenges. In many cases, there exist many different indicators that one might adopt to assess implementation of some aspect of the right to development. In these cases, it was necessary to decide on the specific aspects of implementation that assessment should focus on (i.e., lower-level sub-criteria of the right to development) and, having done so, to specify criteria for indicator selection within that aspect. Each of these issues is discussed in turn below. In other cases, no ready indicator exists to assess implementation of an aspect of development which we argue assessment should focus on. The indicators framework we propose thus also highlights those areas where assessment is needed but where indicators are lacking, shining a light on those areas where indicator development is urgently needed. In the rest of this section we set out the theoretical framework we propose for selecting indicators; in section IV we illustrate how the framework plays out in practice.

1. Identifying the development context of priority concerns

Our mandate from the task force required that in addition to addressing the essential features of the right to development as reflected in the Declaration itself, we take into account the six components of Millennium Development Goal 8—establishing a global partnership for development³⁷—and the priority concerns of the international community, including especially those expressed by the Working Group. Many of the pressing development challenges identified by the Working Group are transient in their particulars, as are many of the factors precipitating those challenges, and needed to be understood within their broader context.

In deciding how best to narrow the range of our focus while remaining true to the broad agenda of the Declaration on the Right to Development, we first framed the priority concerns of the international community within the context of development problems that have persisted throughout the ages and are likely to persist into the distant future. Specifically, we organized the pressing development concerns into overarching topics and then drew on the broader development literature to elucidate two issues. First, we sought to determine the extent to which and the ways in which current pressing development challenges and obstacles were related to broader development issues and to each other and second, we sought to isolate the particular factors contributing to today's pressing development challenges as well as possible solutions to those challenges. For example, our examination of the global food crisis suggested that if the current food crisis is to be surmounted and future crises prevented, action on several fronts is required ranging from actions to prevent destabilizing price speculation to actions to ensure adequate food production and stocks, to actions to slow climate change. This analysis enabled us to identify the factors that States, acting collectively and individually (both internally and externally) need to be concerned with in their efforts to implement the right to development. By enabling us to identify these factors as relevant to each of the three types of State obligation, the analysis also allowed us to identify the kinds of forward-looking (prescrip-

tive) and backward-looking (outcome) indicators that might be used to assess implementation of the right to development.

2. Specifying indicator categories

Several other indicator classifications, some of them overlapping the forward-looking/backward-looking divide, needed to be decided on as well. First, we sought indicator categories that would capture the tri-fold obligation of duty bearers to respect, protect and fulfil the rights articulated in the Declaration, in accordance with standard human rights understandings of the different kinds of State obligations that exist. Second, we needed to decide on the balance between universally relevant and contextually or culturally specific indicators.

We have followed the approach that is widely applied in the United Nations human rights world by identifying three kinds of indicators—structural, process and outcome indicators—to monitor the tri-fold obligation of States to respect, protect and fulfil human rights, for the reasons articulated in the United Nations "Report on indicators for promoting and monitoring the implementation of human rights" (HRI/MC/2008/3). Structural indicators track whether treaty commitments and domestic laws are in place that hold States (acting individually and collectively in regard to the right to development) accountable for implementing various aspects of the right, as well as whether the basic institutional mechanisms and policy frameworks are in place to facilitate realization of different aspects of the right. In this way, structural indicators measure a State's commitment to implementing particular aspects of the right to development. Process indicators meter the efforts undertaken to make a State's commitment a reality. They include indicators reflecting the extensiveness of programmes and projects put in place to implement the right as well as indicators reflecting the financial and human resources devoted to implementing the right. Finally, outcome indicators reflect the results of a State's efforts as consolidated over time. As related to the right to development, they are summary indicators that track progress in realizing the different aspects of the right to development and, accordingly, people's enjoyment of the different aspects of the right.³⁸

³⁷ The six targets under Millennium Goal 8 are: "1. Develop further an open, rule-based, predictable, non-discriminatory trading system. 2. Address the special needs of the least developed countries. 3. Address the special needs of landlocked developing countries and small island developing States. 4. Deal comprehensively with the debt problems of developing countries. 5. In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries. 6. In cooperation with the private sector, make available the benefits of new technologies, especially information and communications." Available at www.undp.org/content/undp/en/home/mdgoverview.html.

³⁸ It is useful to briefly distinguish here between the respective roles of development indicators, human rights indicators generally and right to development indicators specifically. Development indicators tend to focus on development outcomes and do not concern themselves with the actions of particular actors. Human rights indicators focus on the extent to which internationally recognized human rights are being enjoyed by rights holders or are being respected, protected or fulfilled by duty bearers. In the case

It is clear that the substantive components of the right to development are constant across countries and regardless of whether countries are acting individually or collectively. However, development contexts differ across countries. Cultural preferences also shape development objectives, reflecting heterogeneous values, and preferences are also endogenous and so can change over time. A balance needs to be struck between universally relevant indicators and contextually or culturally specific indicators, especially when it comes to monitoring implementation of the right to development with regard to States acting individually with regard to domestic development (the individual-internal component of the right to development). Our mandate emphasized specifying universally relevant indicators and, accordingly, the balance struck stressed universally relevant over culturally specific indicators, although with regard to national-level development outcomes, where relevant, our full report specifies separate indicators for high- and low-income countries. This is not to relegate locally and culturally specific indicators to a lower priority, but rather to leave extensive space for country participation in specifying international benchmarks by region or other country category and in specifying indicators and benchmarks relevant to assessing implementation of the right to development with regard to States' individual-internal obligations.

3. Criteria for indicator selection

A number of additional criteria guided our selection of proposed indicators, including their validity, reliability, availability, and international and inter-temporal comparability. Validity refers to how well an indicator reflects what one desires to measure, while reliability refers to whether the value of an indicator is consistently estimated in repeated samples or, practically speaking, whether it can be trusted. Collecting data is far from costless and some indicators cost more than others to collect. Whenever possible, we proposed indicators that are currently widely available, are currently being collected as part of other monitoring initiatives or are inexpensive to collect and construct, such as indicators drawing on regularly

collected administrative data. As it is not possible to monitor progress across countries unless indicators are internationally comparable, and in order to monitor progress over time, we decided that the indicators we proposed must also be inter-temporally comparable.

In order to monitor the right to development as it pertains to vulnerable groups, especially vulnerable groups within countries, it must be possible to disaggregate (or decompose) indicators by the population subgroup of concern. Thus, we propose indicators that can be disaggregated or decomposed in principle, although in most cases current data initiatives will need to be strengthened in order to provide the disaggregated data essential to assessing the situation of vulnerable groups.

An additional factor that guided our selection of quantitative indicators, in particular, is the methodology used to collect the data that directly constitute indicators or are used to construct indicators. Specifically, the quantitative indicators proposed use an objective data-generating method and a transparent methodology. So far as is reasonable, the quantitative indicators proposed are derived from socioeconomic and other administrative statistics. These sorts of data are collected through administrative records and statistical surveys. National statistical institutes or international organizations with high professional standards compile most socioeconomic data using standardized methodologies. As such, socioeconomic data tend to have high validity and reliability. National statistical institutes are expected to be impartial, neutral and objective and tend to follow guidelines set by international statistical organizations. As a result, socioeconomic statistics are generally comparable across countries and over time.

To the extent possible, we avoided using quantitative indicators derived from events-based data. Although much of this type of information is increasingly recorded in standardized format, events-based data on human rights violations tend to underestimate violations and are seldom comparable across countries or even over time within a country. Similarly, we avoided basing quantitative indicators on household perception and opinion surveys since the subjectivity inherent in this sort of data leads to low reliability and validity scores and poses international and inter-temporal comparability problems. The methodology and data-generating method used to construct data based on expert judgement is generally opaque; thus, we avoided data based on expert judgement unless the methodology was transparent and the data-generating method was objective.

of international economic, social and cultural rights, the level of enjoyment is properly assessed in the light of the Government's maximum available resources under the principle of "progressive realization". As such, it cannot be gauged from development indicators metering rights enjoyment alone (although development indicators can be used in limited ways to help measure enjoyment or, when disaggregated, to help identify areas of discriminatory outcomes). Human rights indicators in turn overlap with right to development indicators, but comprise only a subset of what is relevant to assessing implementation of the right to development. The right to development both explicitly incorporates other human rights standards and adds additional dimensions, in particular with regard to equity and the collective and external obligations of States as discussed in section II.A above.

The process of identifying indicators involved searching through indicators on dozens of subjects and from dozens of data sources to identify those that met the criteria specified above and had wide country coverage, and then from among them choosing the best for the purposes at hand. The initial set of indicators that we proposed in sections IV-VI of our original report, and that are excerpted below in section IV, were chosen following the methodological and technical approaches outlined above. A final choice of indicators, however, would need to follow a longer and participatory decision-making process.

C. Process issues around determining final right to development indicators

The technical approaches laid out in the sections above are relevant to any choice of indicators monitoring implementation of any aspect of the right to development. In section IV below, we set out some examples of right to development indicators from a comprehensive set that we arrived at using that process. As mentioned above, however, the purpose of these indicators (both the examples given below and the larger set in our original report) is to demonstrate that indicators are in fact available and that setting out to measure implementation of the right to development is not infeasible. Ultimately, given the substantive range of the right to development and the normative aspects of deciding on precise indicators, the decision of what actual indicators to use cannot and should not be made by two people working together over a four-month period, as was our initial set of exemplary indicators. Within the framework that we have proposed, the final choice of indicators involves both science-based and normative decisions concerning areas of focus (lower-level sub-criteria) and the choice of indicators among the possibilities that meet the technical standards established above. An effective decision-making process would involve both of the following: (a) contributions of persons with extensive sectoral expertise in each of the major elements (primary sub-criteria) of the core criteria of the right to development; and (b) stakeholder participation and consultation on the normative issues involved in deciding areas of priority for measurement purposes.

In the case of a set of formal guidelines on the right to development or of a legally binding instrument, we would recommend establishing a fixed normative framework including core criteria and primary

sub-criteria, as in the framework we have proposed, and then an oversight system that gives extensive room for periodic updating of lower-level sub-criteria and associated indicators based on the contemporaneous development context and priorities. For the measurement and oversight system to be most effective, both the initial set of sub-criteria and indicators and the periodic updates would need to be determined through consultative processes that involved the elements mentioned above, i.e., technical expertise in relevant sectors and discussion with a wide range of stakeholders from Government, the international civil service and civil society, among others; such a process has already been put in motion to determine human rights indicators.³⁹

In addition, we recommend that there be separate and overlapping processes for determining lower-level sub-criteria and indicators for each of the three kinds of obligation (collective, individual-internal and individual-external). Each of the primary sub-criteria plays out slightly differently depending on whether it is being applied to collective, internal or external obligations of States. (In table 5 below, we “interpret” the primary sub-criteria for each of the three levels in order to determine appropriate lower-level sub-criteria; such interpretations could be occasionally revisited, as with the current general comments system of the human rights treaty bodies.) Within such interpretations, determination of measurement tools for collective obligations would clearly need to be made at a global level. Decisions on national-level lower-level sub-criteria and indicators, however, might best be made largely at the national or regional level, so long as they are published to the international community and made a subject of discussion in international forums, where other States (particularly those affected by national-external policies and practices) could discuss them. This would leave room for national-level setting of development priorities and policy choices while maintaining a mutually beneficial dialogue among States.

IV. Exemplary sets of lower-level sub-criteria and indicators

Ultimately, we proposed over 200 indicators for monitoring implementation of the right to development. The full set of lower-level sub-criteria and indicators is provided in the unabridged version of our report. Here we give an abbreviated set.

³⁹ See HRI/MC/2008/3 and OHCHR, *Human Rights Indicators* (footnote 2).

The tables that we present below are intended to serve two goals: first, to demonstrate that it is indeed feasible to determine right to development indicators that effectively measure implementation of the right to development as set forth in our framework and that meet the standards discussed in section III above; the second is to jump-start the full consultative process of determining appropriate lower-level sub-criteria and indicators by providing a sample as a basis for discussion.

To serve this purpose we offer three exemplary sets. The first focuses on one particular pressing development concern identified by the Working Group and guides the reader through the process of moving from a core criterion to a relevant primary sub-criterion to determining appropriate lower-level sub-criteria and indicators for the collective obligations aspect of the right in the context of that specific concern. The second set shows how the primary sub-criteria under each of the core criteria can be adapted to the different types of State obligations and give rise to specific lower-level sub-criteria for each of the three types of obligation. The third set is meant to illustrate the collaborative process by which right to development sub-criteria and indicators might be achieved. Taking the international and interdisciplinary expert consultation on the elaboration of criteria and operational sub-criteria for the implementation of the right to development, held at Harvard on 17 and 18 December

2009, as representing a first step in the collaborative process necessary to fix the set of core criteria and primary sub-criteria and reach consensus on the lower-level sub-criteria and associated indicators most relevant to the current global priorities and development context, it shows the results that emerged after discussion of our initial proposals with regard to States' collective obligations.

A. Exemplary set I

Here we demonstrate the indicators framework and methodology we have proposed by applying them to one of the pressing current development challenges identified by the Working Group: the food crisis.

As elaborated in our discussion of the contours of the right to development, States have three kinds of obligations when it comes to fulfilling the right to development: collective-action obligations, individual (or unilateral action) obligations with regard to those under their jurisdiction, and individual obligations with regard to those outside their jurisdiction. There are also three core criteria, in brief: to promote sustainable development; to operate in accordance with the full range of international human rights standards; and to adopt and implement equitable approaches. The resultant 3 by 3 matrix is the first level of our framework and is shown below as table 1.

Table 1: Framework core criteria by type of State obligation

| Are States taking steps to establish, promote and sustain national and international arrangements that: | Collectively | Individually-internally | Individually-externally |
|--|--------------|-------------------------|-------------------------|
| Core criterion 1—Promote and ensure sustainable, comprehensive human development in an environment of peace and security | 1.C | 1.H | 1.I-E |
| Core criterion 2—Operate in accordance with the full range of international human rights standards, including civil, cultural, economic, political and social rights, with due attention to the rights to self-determination and participation, while also promoting good governance and the rule of law | 2.C | 2.H | 2.I-E |
| Core criterion 3—Adopt and implement equitable approaches to sharing the benefits and burdens of development | 3.C | 3.H | 3.I-E |

A series of primary sub-criteria are then defined for each of the nine cells in table 1.⁴⁰ For example, with regard to cell 1.C—collective obligations with regard to sustainable, comprehensive human development—there are seven primary sub-criteria, as shown in table 2.

Digging deeper, under each one of the primary sub-criteria is a set of lower-level sub-criteria. So, for

example, if we look under the first primary sub-criterion in table 2—a stable global economic and financial system—two lower-level sub-criteria emerge: (a) reducing the risk of international economic and financial crises; and (b) protecting against the volatility of commodity prices. Under each of these are still lower-level sub-criteria, four in the case of “reducing the risk of international economic and financial crises” and two in the case of “protecting against the volatility of commodity prices”, as are shown in table 3.

⁴⁰ Table 5 below lays out these primary sub-criteria for each of the nine cells in our framework.

Table 2: Framework primary sub-criteria

| | Collective: primary sub-criteria Do international systems, policies, etc. promote and ensure: |
|---|--|
| Core criterion 1 – Sustainable, comprehensive human development | 1. A stable global economic and financial system? |
| | 2. A rule-based, open, predictable, non-discriminatory international trading system? |
| | 3. Access to adequate human and financial resources? |
| | 4. Access to the benefits of science and technology? |
| | 5. An environment of peace and security conducive to development? |
| | 6. Environmental sustainability and sustainable use of national resources? |
| | 7. Constant improvement in social and economic well-being? |

Table 3: Framework lower-level sub-criteria

| Core criterion 1 – Sustainable, comprehensive human development | Primary sub-criterion: stable global and economic financial system |
|--|--|
| Collective obligations | Reducing the risk of international economic and financial crises. <ul style="list-style-type: none"> • Macro policy coordination • Counter-cyclical official financial flows • Stability of private capital flows • Global liquidity |
| | Protecting against the volatility of commodity prices. <ul style="list-style-type: none"> • Agricultural commodity prices • Non-agricultural commodity prices |

Indicators are then defined under each of the lowest-level sub-criteria identified for each of the nine cells comprising the 3 by 3 matrix shown as table 1. Indicators relevant to monitoring the recent food crises that are relevant to the collective obligations of States fall under the lowest-level sub-criterion of the matrix “agricultural commodity prices”. Table 4 below shows three indicators proposed to monitor implementation of the right to development with regard to States’ collective obligation to protect against the volatility of agricultural commodity prices, which is one component of their broader collective obligation to “promote and ensure sustainable, comprehensive human development in an environment of peace and security”. The first indicator listed is a prescriptive (forward-looking) indicator. It instructs States to collectively ensure that there is a system or set of institutions in place to mediate swings in food prices. At the same time, this indicator is a structural indicator. The second indicator listed is a process indicator. It is intended to assess

whether the effort made collectively by States to limit food price swings is expected to be sufficient to prevent food crises. Agreement on the benchmark value of this indicator would need to be sought if indeed the maintenance of staple food buffer stocks is the primary institutional mechanism put in place to mediate food price swings. The third indicator listed is an outcome indicator that shows how much the current year’s food prices have changed relative to the average price over the previous five years. In the absence of food price swings, this ratio will be equal to one. Note that the proposed indicators, while meeting the criteria set forth in our methodological section, are not the only ones that might be selected to implement this aspect of the right to development. They are intended to demonstrate the feasibility of assessing implementation of this aspect of the right to development and to call forth a global dialogue to agree upon a set of indicators to assess this aspect of the right to development.

Table 4: Proposed indicators

| Lower-level sub-criteria under framework primary sub-criterion "promote and ensure a stable global economic and financial system" | Agricultural commodity prices |
|---|---|
| Protecting against volatility of commodity prices | 1. Existence of global or globally coordinated institutions or systems capable of mediating price swings on key staple foods (corn, oilseed, soybeans, rice, wheat), e.g., by operating a global physical or virtual buffer stock system of key staples |
| | 2. Size of global physical (or virtual) key staple food buffer stock relative to global food consumption |
| | 3. Ratio of the annual value of FAO food price index to the average value of FAO food price index over the previous five years |

B. Exemplary set II

Exemplary set II opens the lens wider and offers a complete set of primary sub-criteria and possible lower-level sub-criteria for all three types of State obligation under all three of the core criteria. The primary sub-criteria are constant across types of State obligations in their essence; but to be most practical, the primary sub-criteria need to be tailored to (that is, interpreted in the context of) the different types of State obligations, so as to give rise to appropriate

lower-level sub-criteria and indicators for that type of obligation. That is, the primary sub-criteria, lower-level sub-criteria as well as indicators for a particular core criterion will often differ when it comes to measuring implementation of the different types of State obligation—collective, individual-internal and individual-external. Table 5 sets out versions of the primary sub-criteria for each of the three core criteria that are tailored to each of the three types of State obligations, along with a set of possible lower-level sub-criteria deriving from them.

Table 5: Framework core criteria and primary sub-criteria by type of State obligation

| | Collective | Individual-internal | Individual-external |
|--|--|---|--|
| Criterion 1 – Promote and ensure sustainable, comprehensive human development in an environment of peace and security by | <p>Promoting and ensuring:</p> <ol style="list-style-type: none"> 1. A stable global economic and financial system <ol style="list-style-type: none"> a. Reducing the risks and mitigating the impacts of international economic and financial crises <ol style="list-style-type: none"> i. Macro policy coordination ii. Counter-cyclical official financial flows iii. Stability of private capital flows iv. Global liquidity b. Protecting against volatility of commodity prices <ol style="list-style-type: none"> i. Agricultural commodity prices ii. Non-agricultural commodity prices 2. A rule-based, open, predictable and non-discriminatory international trading system <ol style="list-style-type: none"> a. Market access b. Movement of persons 3. Access to adequate human and financial resources <ol style="list-style-type: none"> a. Magnitude and terms of official bilateral capital flows b. Magnitude and terms of official multilateral capital flows c. Debt sustainability 4. Access to the benefits of science and technology <ol style="list-style-type: none"> a. Agricultural technology b. Manufacturing technology c. Green technology d. Health technology e. Information technology 5. An environment of peace and security conducive to development <ol style="list-style-type: none"> a. Preventing conflict, including over natural resources b. Protection of the vulnerable during conflict c. Securing the post-conflict period | <ol style="list-style-type: none"> 1. Implementing a legal framework supportive of sustainable, comprehensive domestic human development, including <ol style="list-style-type: none"> a. Ratifying international conventions supporting sustainable, comprehensive domestic human development b. Putting in place national legal protections supportive of sustainable, comprehensive domestic human development 2. Introducing a comprehensive national development strategy and plan of action that is devised, and is periodically reviewed, on the basis of a participatory and transparent process 3. Maintaining a stable economic and financial system, to the extent that it falls within the domestic domain by <ol style="list-style-type: none"> a. Reducing the risks of domestic financial crises by implementing <ol style="list-style-type: none"> i. Ensuring an appropriate regulatory framework in place ii. Maintaining domestic price stability iii. Maintaining stable country investment iv. Ensuring stability of global capital flows b. Protecting against volatility of commodity prices c. Reducing risks of external macro imbalance 4. Promoting an economic regulatory and oversight system to manage risk and to encourage competition, including <ol style="list-style-type: none"> a. A clear and consistent system of property rights and contract enforcement b. Policies and regulations promoting private sector development 5. Promoting access to adequate human and financial resources at national and subnational levels | <p>Promoting and ensuring:</p> <ol style="list-style-type: none"> 1. A stable global financial system <ol style="list-style-type: none"> a. Reducing the risks of international financial crises b. Providing against volatility of commodity prices 2. A rule-based, open, predictable and non-discriminatory international trading system that provides for <ol style="list-style-type: none"> a. Market access b. Movement of persons 3. Access to adequate human and financial resources <ol style="list-style-type: none"> a. Financial resources b. Human resources 4. Access to the benefits of science and technology, including <ol style="list-style-type: none"> a. Agricultural technology b. Manufacturing technology c. Green technology d. Health technology e. Information technology 5. Development in an environment of peace and security by <ol style="list-style-type: none"> a. Preventing conflict, including over natural resources and peacekeeping b. Providing for refugees and asylum seekers c. Securing the post-conflict period |

| | Collective | Individual-internal | Individual-external |
|--|---|---|--|
| | <p>6. Environmental sustainability and the sustainable use of natural resources</p> <ol style="list-style-type: none"> Access to natural resources Sustainable energy policies and practices Enabling mitigation of and adaptation to negative impacts of climate change Ensuring globalization promotes environmental sustainability <p>7. Constant improvement in social and economic well-being</p> <ol style="list-style-type: none"> Health Education Housing/water Work/social security Food | <p>6. Promoting universal access to the benefits of science and technology, including</p> <ol style="list-style-type: none"> Pro-poor technology Agricultural technology Manufacturing technology Technology diffusion Technological capacity <p>7. Promoting an environment of peace and security conducive to development</p> <ol style="list-style-type: none"> Preventing conflict, including conflict over natural resources Protection of the vulnerable during conflict Securing the post-conflict period Ensuring personal security in times of peace <p>8. Promoting environmental sustainability and sustainable use of natural resources, including</p> <ol style="list-style-type: none"> Preventing environmental degradation and resource depletion Enabling mitigation of and adaptation to negative impacts of climate change Implementing sustainable energy policies and practices Preventing environmental degradation and resource depletion <p>9. Promoting improvement in social and economic well-being</p> <ol style="list-style-type: none"> Health Education Housing/water Social security Food Work | <p>6. Environmental sustainability, including sustainable energy policies and practices by</p> <ol style="list-style-type: none"> Preventing environmental degradation and resource depletion, and enabling mitigation of and adaptation to negative impacts of climate change Promoting and participating in global negotiations concerning global environmental sustainability |

| | Collective | Individual-internal | Individual-external |
|---|--|---|---|
| <p>Criterion 2— Operate in accordance with the full range of international human rights standards, including the right to self-determination, as well as principles of good governance, i.e.:</p> | <ol style="list-style-type: none"> 1. Drawing on all relevant international human rights instruments in elaborating development goals 2. Integrating the cross-cutting norms of non-discrimination, participation, access to information and access to means of effective complaint and remedy into development-related policies, institutions and processes, noting that they should be reflected in all stages — assessment, planning, implementation, monitoring and evaluation — of development-related policy and programming 3. Promoting good governance at the international level, including promoting the democratization of the system of international governance and promoting effective participation of all countries in international decision-making, including <ol style="list-style-type: none"> a. Incorporating aid recipients' voices in aid programming, including evaluation b. Promoting and ensuring participation at the global level c. Implementing effective anti-corruption measures | <ol style="list-style-type: none"> 1. Draw on all relevant international human rights instruments in elaborating the content of national development goals and strategies <ol style="list-style-type: none"> a. Respecting, protecting and fulfilling the full range of human rights as part of the process of national development, including <ol style="list-style-type: none"> i. <i>Economic, social and cultural rights, progressively, to the maximum of available resources</i> ii. <i>Civil and political rights</i> b. Assessing and taking into account the domestic human rights impact of international agreements 2. Integrating cross-cutting norms of participation, access to information, means of complaint and effective remedy and non-discrimination into all stages of development-related policy and programming, including assessment, planning, implementation, monitoring and evaluation <ol style="list-style-type: none"> a. Ensuring free, meaningful and active participation in development-related decisions by persons affected by those decisions b. Ensuring availability and accessibility of relevant substantive and procedural information concerning development-related policies and programmes c. Ensuring access to legal, administrative or other forms of effective remedy for violations of human rights or domestic standards in development-related policies and programmes d. Ensuring non-discrimination, equal treatment under the law and attention to the needs of members of vulnerable groups 3. Promoting good governance, rule of law and anti-corruption measures | <ol style="list-style-type: none"> 1. Ensuring that trade ministries are informed by human rights standards when drafting and negotiating bilateral treaties, including investment treaties 2. Ensuring that trade ministries are informed by human rights standards when considering bringing complaints before trade-related dispute-resolution bodies 3. Regulation of extraterritorial actions of its citizens and of business enterprises incorporated under its jurisdiction 4. Using voting power in the governance of multilateral institutions to ensure that those institutions operate in accordance with the full range of international human rights, including <ol style="list-style-type: none"> a. Promoting the adoption of an explicitly rights-based approach in multilateral development institutions |

| | | | |
|---|---|---|---|
| <p>Criterion 3— Adopt and implement equitable approaches to sharing the ben- efits of devel- opment and to distributing the environmental, economic and other burdens that can arise as a result of development by:</p> | <p>Collective</p> <p>1. Promoting the fair and equitable distribution of the benefits of development by ensuring (and helping partners to ensure) that the benefits of development are shared in an equitable fashion among individuals, groups of individuals and peoples, including special attention to the needs of vulnerable or marginalized groups or peoples (including least developed, small island, land-locked and post-conflict countries)</p> <ul style="list-style-type: none"> a. Equitably meeting needs of vulnerable countries b. Equitably meeting the needs of marginalized peoples, groups and individuals <p>2. Promoting the fair and equitable distribution of the burdens of development by ensuring (and helping partners to ensure) that the burdens caused by development advances, including environmental burdens and shocks caused by economic or industrial transitions, are shared in an equitable fashion among peoples and individuals and address the needs of vulnerable and or marginalized individuals, groups of individuals and peoples</p> <ul style="list-style-type: none"> a. Mitigating differential bargaining and adjustment costs of trade liberalization b. Equitably sharing the environmental burden of development | <p>Individual-internal</p> <p>1. Providing for a fair and equitable distribution of the benefits of development at the national level by ensuring that the benefits are shared in an equitable fashion among individuals, groups of individuals and peoples, including special attention to the needs of marginalized groups or peoples, to include</p> <ul style="list-style-type: none"> a. Access to resources and public goods b. Equitable human development outcomes <p>2. Promoting the fair and equitable distribution of the burdens of development by ensuring that the burdens caused by development advances, including environmental burdens and shocks caused by economic or industrial transitions, are shared in an equitable fashion among peoples and individuals and address the needs of vulnerable and/or marginalized individuals, groups of individuals and people</p> <ul style="list-style-type: none"> a. Fair sharing of benefits and burdens of economic adjustment | <p>Individual-external</p> <p>Promoting and ensuring:</p> <ol style="list-style-type: none"> 1. A fair trading regime 2. The movement of persons 3. Protection of indigenous groups |
|---|---|---|---|

C. Exemplary set III

Tables 6 through 8 below set out a complete complement of possible lower-level sub-criteria and indicators for States' collective obligations under the right to development for core criteria 1, 2 and 3, respectively. The source for each indicator is referenced with a letter in parentheses; table 9 provides the key to the indicator sources.

Together, tables 6, 7 and 8 extend the framework set out in table 5 to the indicator level with regard to States' collective obligations. The selected indicators are those the Harvard consultation identified as most promising from among those we identified in our original report. Note that analogous tables for States' internal and external obligations, along with indicators selected as most promising for measuring each of the lower-level sub-criteria in each of the tables, can be found in section VI of the original report.

Table 6: **Collective obligations: core criterion 1, primary sub-criteria, lower-level sub-criteria and indicators**

| Obligations of collective action at regional and global levels | |
|---|---|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 1—Promote and ensure sustainable, comprehensive human development in an environment of peace and security | |
| 1. A stable global economic and financial system | |
| Reducing the risks and mitigating the impacts of international economic and financial crises | |
| Macro policy coordination | (↑) Percentage of coordinated macro policy decisions by G-8 and G-20 countries (separately) that incorporate analysis of their human development impact (a) |
| Counter-cyclical official financial flows | (-↑) Year-to-year percentage change in total IMF credit and loans disbursed (net transfer IBRD and IDA loans outstanding, official net transfer) in proportion to percentage change in GNI growth rate, averaged across developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries (b) |
| Stability of private capital flows | (1) Ratio of current year net transfer private non-publicly guaranteed external debt to average over previous 5 years' net transfer, for all (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries (b) (1) Ratio of current year portfolio equity flows as percentage of GNI to average of previous 5 years' portfolio equity flow as percentage of GNI, for all (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries (b) |
| Global liquidity | (>0, b) Ratio of value of Special Drawing Rights (US\$) to GNI, averaged across all (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries (c),(d) |
| Protecting against the volatility of commodity prices | |
| Agricultural commodity prices | (y) Existence of global or globally coordinated institutions or systems capable of mediating price swings on key staple foods (corn, oilseed, soybeans, rice, wheat), e.g., by operating a global physical or virtual buffer stock system of key staples (>0,b) Size of global physical (or virtual) key staple food buffer stock relative to global food consumption (e) (1) Ratio of annual value of FAO food price index to the average value of FAO food price index over the previous 5 years (f) |
| Non-agricultural commodity prices | (1) Ratio of highest value price index for non-agricultural raw materials (minerals, ores and metals, crude petroleum) in previous 12 months to lowest value of the same price index in previous 12 months (g) (1) Ratio of average value price index for non-agricultural raw materials (minerals, ores and metals, crude petroleum) in current year to average value of the same price index over the previous 5 years (g) |

| Obligations of collective action at regional and global levels | |
|---|--|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 1—Promote and ensure sustainable, comprehensive human development in an environment of peace and security | |
| 2. A rule-based, open, predictable and non-discriminatory international trading system | (↑) Percentage of all (least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries that are members of one or more trading arrangements that are conducive to the right to development |
| Market access | (↑) Value of exports as a percentage of all (least developed, landlocked countries, small island developing, post-conflict, low-income, middle-income, high-income) countries' global trade (i) (↓) Value of agricultural (cotton) support estimate for OECD countries as percentage of the value of OECD agricultural (cotton) output (h) (↑) Value of agricultural imports from developing (least developed, landlocked, small island developing, low-income, middle-income) countries as a percentage of value of agricultural consumption in OECD countries (i),(i) (↓) Average tariff rate on manufactured goods in OECD (low-income, middle-income) countries (i) (↓) Average across all countries of tariff rate on manufactured imports from countries with lower per capita income levels (i),(d) (↓) Average across all countries of tariff rate imposed on imports from countries with lower per capita income levels (i),(d) (↓) Number of manufactured products subject to tariff peaks in some OECD countries (i),(k) (↑) Average across developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries of the share of manufactured exports (value) of value of total merchandise exports (i) |
| Movement of persons | (↑) Percentage of countries with net in-migration (net out-migration) that have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (m) (↑) Average value across OECD (high-income) countries of the Center for Global Development's "migration index" (n) |
| 3. Access to adequate human and financial resources | |
| Magnitude and terms of official bilateral capital flows | (↑) Net ODA total as percentage of OECD/DAC donors' GNI—Millennium Development Goal indicator 8.1 (o) (↑) Net ODA to developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries as percentage of recipient countries' GNI (b) |
| Magnitude and terms of official multilateral capital flows | (↑) Percentage of aid provided as programme-based approaches and accordingly using common arrangements or procedures in developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries—Paris Declaration on Aid Effectiveness indicator 9 (p) (↑) Center for Global Development indicator: ratio across rich countries of quality-adjusted official and quality-adjusted policy-induced charitable giving to rich country GNI (n) (↑) Proportion of total bilateral, sector-allocable ODA of OECD/DAC donors to basic social services (basic education, primary health care, nutrition, safe water and sanitation)—Millennium Development Goal indicator 8.2 (o) (↑) Number of times that innovative proposals for financing (e.g., Tobin tax, airline tax) feature on the agenda of intergovernmental institutions (q) (↑) Total IMF credit under the Flexible Credit Line (pre-approval) as a percentage of total Fund credit and loans outstanding for developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries (b),(q) |
| Debt sustainability | (↓) Ratio of debt to exports for developing (least developed, small island developing, landlocked, post-conflict, low-income) countries—simple average of ratios (b) |
| 4. Access to the benefits of science and technology. | (↓) Percentage of bilateral trade agreements and regional trade agreements that include "TRIPS-plus" conditions (conditions enhancing intellectual property rights protection beyond the agreed levels of the TRIPS Agreement) (q) |
| Agricultural technology | (↓) Share of ODA dedicated to agricultural development (j) |

| Obligations of collective action at regional and global levels | |
|---|---|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 1—Promote and ensure sustainable, comprehensive human development in an environment of peace and security | |
| Manufacturing technology | (↓) Percentage of bilateral trade agreements and regional trade agreements that include TRIMs, which prohibit developing countries from using performance criteria (local content requirements, technology transfer requirements, local employment requirements, research and development requirements, etc.) to maximize the benefit of direct foreign investment (q) |
| Green energy technology | (↑) Share of ODA dedicated to promoting green technologies (j) (↑) Number of countries that have utilized TRIPS flexibilities to acquire green technologies (q) |
| Health technology | (↑) Share of ODA dedicated to health technologies (j) (↑) Percentage of WTO member States that have ratified the amendment to the TRIPS Agreement allowing WTO members to issue compulsory licences to export generic versions of patented medicines to countries with insufficient or no manufacturing capacity in the pharmaceutical sector (r) (↑) Proportion of global population with advanced HIV infection with access to antiretroviral drugs—Millennium Development Goal indicator 6.5 (o) |
| Information technology | (↑) Telephone lines per 100 population plus cellular subscribers per 100 population in developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries—sum of Millennium Development Goals indicators 8.14 and 8.15 (o) (↑) Internet users per 100 population in developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries—Millennium Development Goals indicator 8.16 (o) |
| 5. Development in an environment of peace and security | |
| Preventing conflict, including over natural resources | (y) Creation and entry into force of an international legal standard addressing trade in arms, e.g., the planned arms trade treaty (m) (↑) Percentage of countries committing to private or public international legal regimes or certification schemes to restrict consumer access to products that are sources of, or provide financing for, armed conflict, e.g., the Kimberley Process for so-called “blood diamonds”, or of a single overarching regime for this purpose (e.g.,(s)) |
| Protection of the vulnerable during conflict | (↑) Percentage of States Members of the United Nations that have adopted a national action plan on Security Council resolution 1325 (2000) regarding participation of women in decision-making and peace processes (q) |
| Post-conflict | (↑) Percentage of total annual DAC ODA for disarmament, rehabilitation and reintegration directed specifically at issues affecting women (j) (↑) Percentage of post-conflict countries receiving aid for which there exists a two-sided aid monitoring system encompassing regular meetings by donors to monitor spending of reconstruction funds and regular reporting by donors of their fulfilment of their funding pledges (q) |
| 6. Environmental sustainability, including sustainable energy policies and practices | |
| Access to natural resources | (↑) Value of natural capital (natural capital includes energy resources, mineral resources, timber resources, non-timber forest resources, cropland, pastureland and protected areas) per capita among all (developing, least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries (u) |
| Sustainable energy policies and practices | (↑) Share of renewable energy supply in total primary energy supply among all (developing, least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries (d) |
| Enabling mitigation of and adaptation to negative impacts of climate change | (↓) Global CO ₂ emissions (d) (↓) Average (population weighted) CO ₂ emissions, kg per US\$ 1000 (2005 PPP) of GDP, among all (developing, least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries (d) (>0,b) Average annual change in the percentage of forested area over previous 5 years (d) |

| Obligations of collective action at regional and global levels | |
|---|--|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 1—Promote and ensure sustainable, comprehensive human development in an environment of peace and security | |
| Ensuring globalization promotes environmental sustainability | (↓) Ratio of CO ₂ emissions from foreign-invested enterprises to domestic enterprises averaged across all (developing, least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries |
| 7. Constant improvement in social and economic well-being | |
| Health | (↓) Global under-5 mortality rate and separately as a population-weighted average for least developed (landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries (d) (↓) Global HIV prevalence rate among population 15-24 years and separately as population-weighted average for least developed (landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries—Millennium Development Indicator Goal indicator 6.1 (o) |
| Education | (↑) Global net secondary school enrolment rate and separately as population-weighted average for least developed (landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries (o) |
| Housing/water | (↑) Global percentage of population with access to improved drinking water and separately as population-weighted average for least developed (landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries (d) |
| Work/social security | (↓) Global percentage of population living on less than US\$ 1.25 (2005 PPP) per day and separately as population-weighted average for least developed (landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries—Millennium Development Goals indicator 1.1 (o) |
| Food | (↓) Global percentage of children under 5 that are low height for age and separately as population-weighted average for least developed (landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries (d) |
| 8. Establishment and monitoring of global and regional human development benchmarks | (y) Applies to all of the selected indicators for the sub-criteria specified above |
| <p>*Direction showing improvement in indicator value: (↑)—higher is better; (↓)—lower is better; (-↑)—larger negative value is better; (-↓)—smaller negative value is better; (1)—value closer to 1 is better; (>1)—value equal to 1 or more is better; (<1)—value equal to 1 or less is better; (>0,b)—positive value but specific benchmark needs to be set; (<0,b)—negative value but specific benchmark needs to be set; (y)—yes is better. Source: The full source reference for each indicator is provided in table 9. The lower-case letters in parentheses following each indicator are referenced to the same lower-case letter in table 9.</p> | |

Table 7: Collective obligations: core criterion 2, primary sub-criteria, lower-level sub-criteria and indicators

| Obligations of collective action at regional and global levels | |
|--|---|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 2—Operate in accordance with the full range of international human rights standards, including civil, cultural, economic, political, and social rights, with due attention to the rights to self-determination and participation, while also promoting good governance and the rule of law | |
| 1. Drawing on all relevant international human rights instruments in elaborating development goals | (y) For each multilateral development institution: does the institution explicitly take a rights-based approach to its work? (q) (y) Creation by States of a clear international standard concerning States' duties with regard to regulation of extraterritorial infringement of human rights by business enterprises incorporated under their jurisdiction, e.g., adopting the Guiding Principles on Business and Human Rights (↑) Percentage of all (least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries party to the WTO Agreement for which the WTO Secretariat has undertaken human rights impact assessments of WTO proposals on the table (agreements reached) (↑) Percentage of stabilization loan proposals (agreements reached) for which IMF has undertaken a prior (post-completion) human rights impact assessment (q) (↑) Percentage of World Bank structural adjustment (project) loans for which the World Bank has undertaken a prior (post-completion) human rights impact assessment (q) |
| 2. Integrating cross-cutting norms of non-discrimination, participation, access to information, and effective complaint and remedy into their policies, systems and programming, including into project assessment, planning, implementation and evaluation | (↑) Percentage of human rights impact assessments of WTO (other regional arrangements, bilateral arrangements) proposals on the table (trade agreements) that are made publicly available via the Web (q) (↑) Percentage of stabilization loan proposals (agreements reached) for which IMF has undertaken a prior (post-completion) human rights impact assessment that are publicly accessible via the Web (q) (↑) Percentage of World Bank structural adjustment (project) loans for which the World Bank has undertaken a prior (post-completion) human rights impact assessment that is made publicly available via the Web (q) (↑) Percentage of aid flows recorded in country budgets of developing (least developed, small island developing, landlocked, post-conflict, low-income, middle-income) countries—Paris Declaration on Aid Effectiveness indicator 3 (p) (↑) Percentage of aid channelled through recipient public financial management system in developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries—Paris Declaration on Aid Effectiveness indicator 5a (p) (y) Existence (for each institution as relevant) of a formal system of complaint and remedy for stakeholders concerning violation of the institution's internal policies (q) |
| 3. Promoting good governance at the international level, including promoting the democratization of the system of international governance and promoting effective participation of all countries in international decision-making | |
| Incorporating aid recipients' voice in aid programming and evaluation | (↑) Percentage of donor capacity-development support provided through coordinated programmes consistent with partners' national development strategies for developing (least developed, small island developing, landlocked, post-conflict, low-income, middle-income) countries—Paris Declaration on Aid Effectiveness indicator 4 (p) (↑) Percentage of country analytic work, including diagnostic reviews on aid, that is done jointly in developing (least developed, small island developing, landlocked, post-conflict, low-income, middle-income) countries—Paris Declaration on Aid Effectiveness indicator 10b (p) |

| Obligations of collective action at regional and global levels | |
|--|---|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 2—Operate in accordance with the full range of international human rights standards, including civil, cultural, economic, political, and social rights, with due attention to the rights to self-determination and participation, while also promoting good governance and the rule of law | |
| Participation at global level | <p>(↑) Ratio of the percentage of IMF quotas developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries have to their percentage share of global trade (v)</p> <p>(↑) Ratio of the average number of WTO representatives per developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) country that is party to the WTO Agreement to the average number of WTO representatives per high-income country that is party to the Agreement (q)</p> <p>(↑) Ratio of the percentage of World Bank votes of developing (least developed, landlocked, small island developing, post-conflict, low-income, middle-income) countries to the share of votes of high-income countries(w)</p> <p>(↑ to 50%) Percentage of IMF (World Bank) staff that is female (q)</p> |
| Effective anti-corruption measures | Percentage of all (least developed, landlocked, small island developing, post-conflict, low-income, middle-income, high-income) countries that have ratified the United Nations Convention against Corruption (m) |
| <p>*Direction showing improvement in indicator value: (↓)—higher is better, (↑)—lower is better; (-↓)—larger negative value is better; (-↑)—smaller negative value is better; (1)—value closer to 1 is better; (>1)—value equal to 1 or more is better; (<1)—value equal to 1 or less is better; (>0,b)—positive value but specific benchmark needs to be set; (<0,b)—negative value but specific benchmark needs to be set; (y)—yes is better.</p> <p>Source: The full source reference for each indicator is provided in table 9. The lower-case letters in parentheses following each indicator are referenced to the same lower-case letter in table 9.</p> | |

Table 8: Collective obligations: core criterion 3, primary sub-criteria, lower-level sub-criteria and indicators

| Obligations of collective action at regional and global levels | |
|---|---|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 3— Adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic and other burdens that can arise as a result of development by: | |
| 1. Providing for a fair and equitable distribution of benefits of development by ensuring (and helping partners to ensure) that the benefits of development are shared in an equitable fashion among individuals, groups of individuals and peoples, including special attention to the needs of vulnerable or marginalized groups or peoples (including least developed countries, small island countries, landlocked countries and post-conflict countries) | |
| Equitably meeting needs of vulnerable countries | <p>(>1) Ratio of average per capita GDP growth rate of the poorest quintile of countries to the average per capita GDP growth rate of the wealthiest quintile of countries (d)</p> <p>(↓) Ratio of the under-5 mortality rate averaged (population weighted) across least developed, landlocked and small island developing countries to the under-5 mortality rate averaged across all countries (d)</p> <p>(↑) Ratio of the net secondary school enrolment rate averaged (population weighted) across least developed, landlocked and small island developing countries to the average net secondary school enrolment rate averaged across all countries (d)</p> <p>(↑ to 1) Ratio of the percentage of the population with access to improved drinking water averaged (population weighted) across least developed, landlocked and small island developing countries to the percentage of the population with access to improved drinking water averaged across all countries (d)</p> <p>(↓ to 1) Ratio of the percentage of children under 5 that are low height for age averaged (population weighted) across least developed, landlocked and small island developing countries to the percentage of children under 5 that are low height for age averaged across all countries (d)</p> <p>(↓ to 1) Ratio of the percentage of the population living on less than US\$ 1.25 (2005 PPP) per day averaged (population weighted) across least developed, landlocked and small island developing countries to the percentage of the population living on less than US\$ 1.25 (2005 PPP) per day averaged across all countries (d)</p> <p>(↑ to 1) Ratio of the percentage of HIV/AIDS sufferers being treated with effective drugs averaged (population weighted) across least developed, landlocked and small island developing countries to the percentage of HIV/AIDS sufferers being treated with effective drugs averaged across all countries (o)</p> <p>(↑ to 1) Ratio of the percentage of malaria sufferers being treated with effective drugs averaged (population weighted) across least developed, landlocked and small island developing countries with endemic malaria to the percentage of malaria sufferers being treated with effective drugs averaged across all countries with endemic malaria (o)</p> |

| Obligations of collective action at regional and global levels | |
|---|---|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 3— Adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic and other burdens that can arise as a result of development by: | |
| Equitably meeting the needs of marginalized groups and individuals: | <ul style="list-style-type: none"> (↑ to 1) Ratio of the global under-5 mortality rate for females to the under-5 mortality rate for males (d) (↑ to 1) Ratio of the global net secondary school enrolment rate for females to the global net secondary school enrolment rate for males (d) (↓ to 1) Ratio of the global percentage of female children under 5 that are low height for age to male children that are low height for age (d) (↑ to 1) Ratio of the percentage of female HIV/AIDS sufferers being treated with effective drugs to the percentage of male HIV/AIDS sufferers being treated with effective drugs (o) (↑) Percentage of countries that have ratified the Convention on Biological Diversity according knowledge property rights protection (m) (↑) Percentage (in value terms) of OECD agricultural imports sourced from smallholders (data not currently collected) |
| 2. Promoting the fair and equitable distribution of the burdens of development by ensuring (and helping partners to ensure) that the burdens caused by development advances, including environmental burdens and shocks caused by economic or industrial transitions, are shared in an equitable fashion among peoples and individuals and address the needs of vulnerable and or marginalized individuals, groups of individuals and peoples | |
| Mitigating differential bargaining and adjustment costs of trade liberalization | <ul style="list-style-type: none"> (↑) Percentage of least developed (landlocked, small island developing, post-conflict, low-income) countries party to the WTO Agreement for which the WTO Secretariat has undertaken and made accessible human development impact assessments of WTO proposals on the table (agreements reached) (q) (↑) Proportion of total OECD country imports (by value and excluding arms) from least developed (landlocked, small island developing, post-conflict, low-income) countries admitted free of duty—tracks Millennium Development Goals indicator 8.6 (o) (↑) Percentage of regional and bilateral trade arrangements involving a developing country that permit developing countries to restrict market access for agricultural products when import levels threaten food security and rural livelihood (q) (↑) Time period permitted by WTO for implementation of liberalization measures by developing (low-income, middle-income) countries upon joining WTO (q) (↓) Percentage of developing countries that are involved in a regional or bilateral trading agreement that fail to provide any scope for the implementation of industrial policy (q) (↑) Average time period permitted for implementation of liberalization measures by developing (low-income, middle-income) countries upon joining other regional (bilateral) trade arrangements (q) |

| Obligations of collective action at regional and global levels | |
|--|---|
| Criteria and sub-criteria | Indicators for monitoring implementation (source)* |
| Core criterion 3— Adopting and implementing equitable approaches to sharing the benefits of development and to distributing the environmental, economic and other burdens that can arise as a result of development by: | |
| Equitably sharing environmental burdens of development | <p>(↑) Value of the global funds (sum of ODA and private contributions) as a percentage of global GNI made available to developing countries for activities mitigating the effects of climate change (x),(d)</p> <p>(↑) Average across all countries of the percentage of major environmental treaties ratified (e.g., Cartagena Protocol on Biosafety to the Convention on Biological Diversity; United Nations Framework Convention on Climate Change and its Kyoto Protocol; Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer; Stockholm Convention on Persistent Organic Pollutants; United Nations Convention on the Law of the Sea; United Nations Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa) (m)</p> <p>(↓) Ratio of per capita CO₂ emissions of high-income countries to per capita CO₂ emissions of developing (least developed, landlocked, small island developing, low-income, middle-income) countries (d)</p> |
| <p>*Direction showing improvement in indicator value: (↑)—higher is better, (↓)—lower is better; (-↑)—larger negative value is better; (-↓)—smaller negative value is better; (1)—value closer to 1 is better; (>1)—value equal to 1 or more is better; (<1)—value equal to 1 or less is better; (>0,b)—positive value but specific benchmark needs to be set; (<0,b)—negative value but specific benchmark needs to be set; (y)—yes is better.</p> <p>Source: The full source reference for each indicator is provided in table 9. The lower-case letters in parentheses following each indicator are referenced to the same lower-case letter in table 9.</p> | |

Table 9: Data source references for indicators in tables 6, 7, and 8

The indicators referenced in tables 6, 7, and 8 are either directly available from the specified data source or can be computed from the data sources specified in parentheses at the end of each indicator. The source reference for each letter so indicated is shown below.

- (a) Minutes and background reports of G8 and G20 meetings
- (b) *Global Development Finance Online* data set, available at http://databank.worldbank.org/ddp/home.do?Step=2&id=4&hActiveDimensionId=WDI_Series
- (c) IMF Special Drawing Rights, available at www.imf.org/external/np/exr/facts/sdr.htm
- (d) *World Development Indicators Online* data set, available at http://databank.worldbank.org/ddp/home.do?Step=2&id=4&hActiveDimensionId=WDI_Series
- (e) United States Department of Agriculture Foreign Agricultural Service data sets: www.fas.usda.gov/psdonline
- (f) FAO Food Price Index: www.fao.org/worldfoodsituation/wfs-home/foodpricesindex/en/
- (g) UNCTADstat data dissemination system: www.unctad.org/Templates/Page.asp?intlItemID=1584&lang=1
- (h) OECD, Producer and Consumer Support Estimates Database, 2009 cited in OECD, *Agricultural Policies in OECD Countries: Monitoring and Evaluation 2009*, available at www.oecd.org/dataoecd/37/16/43239979.pdf.
- (i) UNCTAD Trade Analysis and Information System (TRAINS) database: http://r0.unctad.org/trains_new/index.shtml
- (j) OECD Statistics: www.oecd-ilibrary.org/statistics
- (k) World Integrated Trade Solution database: <http://wits.worldbank.org/witsweb/FAO/Basics.aspx>
- (l) United Nations Statistics Division Comtrade database: <http://comtrade.un.org/db/>
- (m) United Nations Treaty Body Database: www.unhchr.ch/tbs/doc.nsf
- (n) Center for Global Development Commitment to Development Index: www.cgdev.org/section/initiatives/_active/cdi/
- (o) United Nations Statistics Division, Millennium Development Goals Indicators website: <http://mdgs.un.org/unsd/mdg/Default.aspx>
- (p) OECD, 2008 Survey on Monitoring the Paris Declaration: Effective Aid by 2010? What will it Take, vol. 1, Overview: <http://siteresources.worldbank.org/ACCRAEXT/Resources/Full-2008-Survey-EN.pdf>
- (q) Administrative data from relevant organizations (e.g., IMF, World Bank, United Nations agencies, etc.)
- (r) WTO members accepting amendment of the TRIPS Agreement: www.wto.org/english/tratop_e/trips_e/amendment_e.htm
- (s) www.kimberleyprocess.com/structure/participants_world_map_en.html
- (t) World Bank CO2 emissions data: <http://data.worldbank.org/indicator/EN.ATM.CO2E.PC>
- (u) Changing Wealth of Nations Database: <http://data.worldbank.org/data-catalog/wealth-of-nations>
- (v) IMF members' quota and voting power: www.imf.org/external/np/sec/memdir/members.htm
- (w) <http://siteresources.worldbank.org/BODINT/Resources/278027-1215524804501/IBRDCountryVotingTable.pdf>
- (x) Global Environment Facility Trust Funds: www.thegef.org/gef/node/2042

IV. Concluding words

The Declaration on the Right to Development has the potential to provide normative energy to core issues in development, from concepts of equity within and among States to integrating human rights in both collective and national development processes. Determining how to measure implementation of the right is inextricably linked to determining what the right itself involves, and thus is a normative practice as well as a technical one. The process of creating a measurement system will work best if it is inclusive of representatives of a wide range of interests and of a broad set of substantive knowledge in the many different social, political and economic spheres that the right to development encompasses.

The framework that we have proposed is intended to provide an interdisciplinary template for further work in this direction. To the extent that it assists stakeholders to determine both the content of the right and the specific elements that are worthy of measurement, and the tools by which they are best to be measured, it will serve its purpose. Ultimately, what we wanted to show, and what we believe the proposed framework and initial set of indicators demonstrate, is that the right to development is very much a workable tool and more than amenable to playing a tangible role in the complex sphere of human rights and development practice.

