

UNITED NATIONS

Centre for Human Rights

Global Consultation on the Realization of the
Right to Development as a Human Right

Geneva, 8 - 12 January 1990

Annotations to the Declaration on the Right to Development
and related United Nations System Instruments, Resolutions and Reports

Prepared for the Centre for Human Rights
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CORRIGENDUM

On page 6, line 6, add the words "as economic" at the end of the line so that it reads: "social, political and cultural as well as economic."

On page 16, first full paragraph, line 28, change "DDR" to "DRD."

On page 33, first paragraph, line 9, insert "are" after "they" so that it reads "that they are also."

On page 40, second full paragraph, delete the word "rights" at the end of the paragraph.

On page 42, line 23, delete the remainder of this paragraph after the word "groups."

On page 50, second full paragraph, line 12, insert the words "at all levels, including" after the words "development at."

On page 53, first full paragraph, line 3, insert the word "level" after the word "international."

On page 71, carryover paragraph, the last sentence should read as follows: The DRD, in its article 8(2), provides that States should "encourage" popular participation, and in article 2(3) refers to "active, free and meaningful participation."

On page 71, second full paragraph, the last two sentences should read as follows: Article 3(3) of the DRD simply provides that "States should realize their rights and fulfill their duties in such a manner as to promote a new international economic order."

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ANNOTATIONS TO THE DECLARATION ON THE RIGHT TO DEVELOPMENT AND
RELATED UNITED NATIONS SYSTEM
INSTRUMENTS, RESOLUTIONS AND REPORTS

INTRODUCTION

In its last report (E/CN.4/1989/10), the open-ended Working Group of Governmental Experts on the Right to Development recommended that the Commission on Human Rights invite the Secretary-General to organize a global consultation on the realization of the right to development involving representatives of the United Nations system and its specialized agencies, regional intergovernmental organizations and interested non-governmental organizations, including those active in development and human rights. It further recommended that the consultation focus on the fundamental problems posed by the implementation of the Declaration on the Right to Development (DRD), criteria which might be used to identify progress and possible mechanisms for evaluating such progress. In its resolution 1989/4 of March 1989, the Commission on Human Rights invited the Secretary-General to organize a global consultation on the realization of the right to development.

The Declaration on the Right to Development was adopted by the General Assembly resolution 41/128 of 4 December 1986. The key concepts reflected in the Declaration are the interrelationship between respect for human rights and development; the essential role of participation in development and in the full realization of all human rights; the role of the individual as the subject, rather than object of development; the creation and promotion of an appropriate international environment; the indivisibility and interdependence of civil and political rights and economic, social and cultural rights; and, the principles of equity and social justice. The sources of these basic principles contained in the DRD can be traced back to various studies and legal instruments adopted by United Nations bodies, in addition to the League of Nations and the Philadelphia Convention of the General Conference of the ILO in 1944.

The history of the principles collected in the DRD reflects the gradual evolution of greater democracy in international relations. It is also a recognition of the fact that the political independence of States cannot be ensured in the absence of economic independence.¹

The Declaration also reflects rethinking of development strategies in the wake of the widespread perception of failure of traditional development policies.² The concepts of human beings as subject rather than object of development, the respect for human rights and interrelationship between human rights and development, as well as popular participation reflect the re-orientation of the development strategy to one that is human-centred.

This paper contains an annotated bibliography of the major sources from within the United Nations system of the key principles reflected in the DRD. The Declaration restates and further develops a number of principles which appear in authoritative United Nations law and policy. This paper will, therefore, focus on the substantive relationship between the DRD and other instruments, resolutions and reports from within the United Nations system.

1. Declaration of Philadelphia, General Conference of the ILO (1944)

The Declaration of Philadelphia, adopted in 1944 and incorporated into the Constitution of the ILO in 1946, clearly expressed the concept implicit in the notion of the right to development. It considered fundamental the objective that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual freedom in conditions of freedom and dignity, of economic security and equal opportunity". It recognized that the individual has the right not only to the material but also to the non-material aspects of development. Development of the individual must take place within the broader framework of development which alone can provide the individual with economic security. Such development will require the application of the principles of social justice and equity. Development and respect for human rights are interdependent. Freedom and dignity should be condition, and end, of development. The Declaration of Philadelphia further stated that all national and international policies, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective.

The 1944 Declaration also implicitly recognized the essential role of participation by reaffirming the principle of "freedom of expression and of association" as "essential to sustained progress". It thus acknowledged the need for the democratization of institutions and decision-making processes for the realization of human rights. Implicit in this principle is the notion that individual rights and collective rights are not mutually exclusive. Even though the right to

freedom of expression and association is an individual right, it must ordinarily be exercised through institutions.

The 1986 DRD in its article 1 explicitly recognizes the right of the individual to enjoy both the material and non-material aspects of development. This article reiterates that respect for human rights must be a condition, and end, of development. In its various articles the Declaration explores the concept of participation as an essential factor in development (arts 1,2 and 8). Moreover, it recognizes that such development is possible only if equal attention is given to civil and political as well as economic, social and cultural rights (art.6(2)). It is also more specific with regard to national and international policies and measures, including structural changes that States should adopt to promote the realization of the right to development, and which must be based on principles of equality, social justice non-discrimination and international solidarity. The principle of social justice and equity is elaborated in the various articles of the DRD and is applied to both individuals within nations and to States in their relations with other States. In articles 2(3) and 8(1) it is referred to as "fair distribution" and equal opportunity.

2. Charter of the United Nations (1945)

The Charter of the United Nations adopted in San Francisco on 25 June 1945 established in its first article that the purposes of the United Nations included the development of friendly relations among nations, "based on respect for the principle of equal rights and self-determination of peoples", and the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion. That purpose was expanded upon and made more specific in Article 55 of the Charter:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 55 expresses the concept of interdependence between respect for human rights and development. Respect for human rights and fundamental freedoms as well as economic and social progress are conditions for stability and well-being. This would require respect for civil and political as well as economic, social and cultural rights. "Development" is thus defined as the achievement of human rights through a process which respects human rights. The interdependence between development and respect for human rights is clearly expressed in article 1 of the DRD. It reaffirms that the right to development is both an individual and collective right. Article 6(2) stipulates civil and political rights and economic, social and cultural rights should be given equal attention.

The principle of non-discrimination is an essential element of human rights, and therefore of the right to development. Articles 1(3), 13(1) and 55 of the Charter refer to respect for, promotion and realization of "human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." The DRD reaffirms the importance of non-discrimination, and applies it as well to relationships among States within the international system.

Moreover, based on the principles of equal rights and the self-determination of peoples, articles 55 and 56 of the Charter emphasize the fundamental legal principle of solidarity between nations, which is necessary for the achievement of development and peace. Under the terms of article 56, "Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55 which relates to, *inter alia*, the promotion of human rights." In accordance with these two articles, the realization of human rights and development are binding legal obligations on Member States.³ They are therefore considered the basis of all future action in this field. The specialized agencies of the United Nations can also be considered to have a duty to promote the realization of the right to development. The relationship between the United Nations and each agency is governed by an agreement concluded in accordance with article 63 of the Charter. The duty of solidarity and its result, the right to development, is reiterated in article 3(2) of the DRD. The various articles calling for steps to be taken to create an appropriate international environment (arts 3,4,5 and 7) are based on the principles of social justice and equity at the international level.

Participation is an essential factor in development and in the realization of human rights. The Charter contains the concept

of participation in its articles concerning Non-Self-Governing Territories and the International Trusteeship System. Here it is a question of the participation of peoples in the actual self-determination procedure. Self-determination and participation are related but distinct concepts, the former applying to States in relations with other States and the latter to individuals in political social processes within their States. The two words are applied to different subjects but have parallel meanings. Article 76(b) cites as one of the basic objectives of the system the promotion of progressive development of the inhabitants of the trust territories towards self-government "as may be appropriate to the...freely expressed wishes of the peoples concerned". With regard to Non-Self-Governing Territories, article 73(b) provides that Members which have responsibility for their administration accept the obligation - "to develop self-government" and "to take due account of the political aspirations of the peoples". Under article 87 of the Charter, the inhabitants of Trust Territories may submit petitions to the General Assembly and the Trusteeship Council. In the DRD the concept of participation is used in a much broader sense. It recognizes the right of peoples to self-determination not only to freely choose their political status but also to freely pursue their economic, social and cultural development. Moreover, it sees the right of self-determination as a fundamental right which is a prerequisite to the realization of all human rights, including the right to development (art.1(2)). The DRD also uses the concept of participation to refer to individual and collective participation inside the State in all spheres of development - political, economic, social and cultural (arts 1(1),2(1) and (3),8(2)).

3. Freedom of Association and Protection of the Right to Organize Convention (ILO Convention No.87) (1948)

This Convention was adopted by the General Conference of the International Labour Organizations in July 1948, and contains various elements of popular participation, relating to freedom of association and trade union freedom. It adds content to the principle of "freedom of association" as a means of improving conditions of labour and of establishing peace recognized in the preamble to the ILO Constitution and subsequently reaffirmed in the Declaration of Philadelphia as "freedom of expression and of association...essential to sustained progress". Implicit in this Convention is the recognition that respect for human rights and development are interdependent. The right to freedom of expression and of association is considered to be a condition of development. Part 1 of the Convention guarantees the collective right of workers and employers to freely set up organizations of their own choice without state interference, to further and defend their interests, and Part 11 requires all States to take appropriate measures to protect this right.

The DRD explicitly recognizes the interrelationship between human rights and development. It provides that respect for human rights is not only a condition for development but also its aim. The right to participation is, moreover, extended to cover not only economic activities, but to include all aspects of human development - social, political and cultural as well (art.1). Articles 2(1) declares that the human person should be the active participant as well as beneficiary of the right to development. Unlike the ILO Convention, however, the DRD does not specifically mention the right to participate through associations. Articles 2(3) and 8(2) provide that the State has a duty to take affirmative measures in order to ensure popular participation in all spheres as an important factor in development. Article 2(3) provides that such participation should be "active, free and meaningful". It is also clear from the Freedom of Association Convention that individual rights and collective rights are not mutually exclusive. Individual rights are often expressed through institutions.

4. Universal Declaration of Human Rights (1948)

The Universal Declaration as a "standard of achievement for all peoples and all nations" was proclaimed by General Assembly resolution 217 A(111) of 10 December 1948. A number of the principles that later appeared in the DRD were first established in the Universal Declaration.

Articles 22 and 28 of the Universal Declaration provide the conceptual basis for the right to development as a human right as defined in Article 1(1) of the 1986 Declaration.⁴ Article 28 guarantees to everyone "a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized." This general principal was also specified in Article 22 preceding the list of economic and social rights which provides that "everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality." Further references to the full development of the human personality are contained in article 26(2) relating to the objectives of education and in article 29(1) which provides that "everyone has duties to the community in which alone the free and full development of his personality is possible." Moreover, these articles contain the notion that human beings have a right not only to the material but also the non-material aspects of development. The individual's right to development includes realization of the entire range of rights specified in the Universal Declaration. The above articles form the basis for the recognition in article 1(1) of the DRD of the existence of the right to development as an individual

right. Article 1 provides for the right of human beings and peoples to both material and non-material aspects of development in that they have a right to "economic, social, cultural and political development."

Preambular paragraph 8 of the Universal Declaration calls on every individual and every organ of society to promote respect for the rights and freedoms proclaimed in the Declaration and to undertake measures, both at the national and international levels, to secure their recognition and observance, both among the peoples of Member States and among the peoples of territories under their jurisdiction. Articles 1 and 2 provide the basic principles on which the rights and freedoms proclaimed in this Declaration are based. Article 1 declares that "all human beings are born free and equal in dignity and rights", and article 2 that "everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Equality, non-discrimination and social justice are also the principles on which the DRD is based. They apply equally to individuals and to nations. Articles 2(3), 6 and 8 stipulate the manner in which States must formulate national development policies and the measures they should undertake to ensure development within their countries. In articles 2(3) and 8(1) the concept of non-discrimination is referred to as fair distribution and equality of opportunity and access. Article 8(1) provides that States must take positive measures in favour of non-discrimination of women. Articles 3,4, and 5 refer to appropriate international development policies and measures that States and the international community must undertake in a manner that respects these principles.

Various articles of the Universal Declaration recognize the importance of the role of participation in the realization of human rights and fundamental freedoms. It guarantees the right of everyone to freedom of thought (art.18), freedom of opinion and expression (art.19), freedom of peaceful assembly and association (art.20), to participate "in the government of his country, directly or through freely chosen representatives" (art.21), to form and to join trade unions (art.23(4)) and to take part "in the cultural life of the community" (art.27). Thus the Universal Declaration recognizes the need for the democratization of institutions and decision-making processes for realization of human rights at the national level. While the Universal Declaration limits the right to participate to government and cultural life, the DRD gives the right to participate a broader meaning and extends it to all spheres of development - economic, social, cultural and political - and to the full realization of human rights (arts 1(1),2(3) and 8(2)).

The Universal Declaration contains both civil and political as well as economic, social and cultural rights. Its second preambular establishes the fundamental link between the two sets of rights by stating that the enjoyment of freedom of speech and belief and freedom from fear and want by every human being has been proclaimed as the highest aspiration of the common people. Article 6(2) of the DRD unequivocally states that all human rights and fundamental freedoms are "indivisible and interdependent" and should be given equal attention.

The rights of individuals as set forth in the Universal Declaration also give rise to corresponding duties. The eighth preambular paragraph states that "every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for those rights and freedoms...". Article 29(1) refers to the duties of the individual towards the community. The duties of the individual are further reinforced by the provision in article 30 that "nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein." The duties of individuals toward the community is placed within the broader context of development in the DRD (art.2(2)), and is reinforced in article 9(2).

Although the Universal Declaration seems to emphasize the rights of individuals, it would appear from article 29 that individual development and fulfilment can be achieved only through the satisfaction of collective prerequisites. This article provides that "everyone has duties to the community in which alone the free and full development of his personality is possible". This interaction between individual and collective rights is also recognized in article 2(2) of the DRD.

Article 28 of the Universal Declaration is the first recognition of the need for a structural approach, both at the national and international levels, in the field of human rights. It proclaimed that everyone is entitled to a social order as well as an international order "in which the rights and freedoms set forth in this Declaration can be fully realized". It is also the first clear statement of the interrelationship between the realization of human rights and a global order, and emphasizes the indispensability of an appropriate international environment for the full realization of human rights. Article 22 emphasizes the importance of international cooperation for the realization of "economic, social and cultural rights" of everyone "indispensable for his dignity and the free development of his personality". Thus, the Universal Declaration already recognized the importance of structural transformation at the international level to accompany national reforms. The DRD is explicit. It provides

that States have the primary responsibility to create an appropriate national and international environment for the realization of the right to development (art.3(1)). With regard to structural change at the national level it provides that States have a duty to undertake appropriate economic and social reforms to eradicate all social injustices (art.8(1)). At the international level, the DRD refers to the need for a new international economic order (art.3(3)). Articles 4,5 and 7 propose further measures to be adopted by States and the international community.

5. Declaration on the Rights of the Child (1959)

This instrument, adopted by the General Assembly in resolution 1386 (XIV), recalling the Geneva Declaration on the rights of the child of 1924, reaffirms the principles which may be considered to provide the legal foundations of the human right to development. It responds to the objectives of the International Covenant on Economic, Social and Cultural Rights in that it provides as principle 2 that "the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity". It recognizes the interdependence between human rights and development. Respect for human rights is seen as a condition for development. This approach gives priority to civil and political rights over economic, social and cultural rights. Principle 2 also recognizes the right of individuals to develop their full potential, to benefit from material and non-material aspects of development. More concrete articles stipulate that they should benefit from social security and education and should not be employed below an appropriate minimum age.⁵

The development of the child is not fundamentally different from the continuing intellectual, cultural, social and political development of the adult person, which right is now recognized in the DRD. It also states that respect for human rights should be both the condition and aim of development. Article 6(2) reflects a departure from the traditional approach which gives priority to civil and political rights, by declaring the indivisibility and interdependence of both sets of rights and providing that equal attention be given to both. The principles of equity and social justice are reiterated and expanded upon in articles 2(3) and 8(1) of the DRD.

6. Declaration on the Granting of Independence to Colonial Countries and Peoples (1960)

In resolution 1514 (XV) of December 1960, the General Assembly proclaimed "the necessity of bringing to a speedy and

unconditional end colonialism in all its forms and manifestations", and adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples. The Declaration reaffirms the principle of the right to self-determination which is considered to provide the legal foundation of the human right to development. In this Declaration the General Assembly declared that it is "convinced that the continued existence of colonialism prevents the development of international economic cooperation, impedes the social, cultural and economic development of dependent peoples and militates against the United Nations ideal of universal peace". It is of interest for the application of economic, social and cultural rights, because it declares that the subjection of peoples to alien subjugation constitutes a denial of fundamental human rights and that all peoples have the right to self-determination and to freely pursue their economic, social and cultural development (art. 1). This article recognizes the economic, social and cultural aspects of the right to self-determination and, expresses the notion of interdependence between the right to self-determination of peoples and human rights and fundamental freedoms. Self-determination is a prerequisite for the realization of all human rights and development.

Article 1 of the DRD reaffirms this interdependence between the respect for human rights and the right of peoples to self-determination understood in all its aspects. It also expresses the desire of peoples and nations to achieve economic independence in order to guarantee their sovereignty and political independence. Article 1(2) declares that the human right to development also implies the full realization of the right to self-determination, including their right to full sovereignty over all their natural wealth and resources. In many respects the right to development is the logical next step in the programme of decolonization begun in earnest by the United Nations with its Declaration on the Granting of Independence to Colonial Countries and Peoples.

7. Programme for the First United Nations Development Decade (1961)

In its resolution 1710(XVI) of 19 December 1961, the General Assembly designated the 1960s as a United Nations Development Decade, calling on all States to "intensify their efforts to mobilize and to sustain" measures to achieve "self-sustaining growth of nations and their social advancement," with the objective of a minimum annual growth rate in national income of 5 per cent by the end of the decade. The General Assembly appealed for more "equitable" and "mutually acceptable" economic relations between developed and developing countries, and, among other things, requested international agencies to

adopt measures to "accelerate the elimination of illiteracy, hunger and disease, which seriously affect the productivity of the people of the less developed countries." The responsibility of States to promote the development efforts of other States in terms of a quantitative target for the net transfer of resources from developed to developing countries became an integral element in the international development strategy. It called upon developed countries to transfer annually a minimum net amount of 1 percent of its gross national product to developing countries.

While the principal aims of the first Development Decade were increasing international financial aid and stimulating growth, there was recognition of the important link between social conditions and economic growth, and of the need to address human needs which, in the framework of the Universal Declaration of Human Rights, are also human rights. This linkage between the achievement of human rights and development strategy is elaborated in the DRD, particularly in article 8.

8. Declaration on Permanent sovereignty over natural resources (1962)

The General Assembly in its resolution 1803(XVII) of December 1962 adopted the Declaration entitled "Permanent sovereignty over natural resources", in which it proclaimed the inalienable right of peoples and nations to permanent sovereignty over their natural wealth and resources. This Declaration gives full expression to article 1(2) of the International Covenant on Economic, Social and Cultural Rights which provided that "all peoples may...freely dispose of their natural wealth and resources...". This right is part of the sovereign and inalienable right of every State to choose its economic, political, social and cultural system in accordance with the will of its people, and is based on article 1 of the two International Covenants which guarantees the right to self-determination. This Declaration is a recognition by the General Assembly that political independence can only be ensured by their economic independence, and that economic independence can be guaranteed only if the people enjoy the right to possess and develop their natural wealth and resources.

Article 1(2) of the DRD reaffirms the right of peoples to self-determination including their inalienable right to full sovereignty over all their natural wealth and resources. It moreover asserts that the right to self-determination is a prerequisite for the realization of the human right to development, and recognizes that individual rights can only be achieved through the realization of collective rights.

The adoption of the 1962 Declaration by the General Assembly reaffirms the existence of a universal right for all States to pursue their own development in an international environment which is conducive to that process. This right provides the basis of article 3 of the DRD which states that States have a duty to create an appropriate international environment for the realization of the right to development.

9. Final Act of the First United Nations Conference on Trade and Development (1964) E/CONF.46/141

Referring to the Charter, the Conference agreed that "the international community must combine its efforts to ensure that all countries - regardless of size, of wealth, of economic and social system - enjoy the benefits of international trade for their economic development and social progress." Calling for "equitable and mutually advantageous" trade relationships among States, the Conference concentrated on the need for more rational terms of trade and a more democratic process of international trade regulation.

At the same time, the Conference acknowledged the importance of ensuring equal enjoyment, within each State, of the opportunities created by economic growth. "If privilege, extremes of wealth and poverty, and social injustice persist, then the goal of development is lost." In this way, the Conference anticipated the provisions of the DRD regarding non-discrimination and the fair distribution of the benefits of development.

10. International Convention on the Elimination of All Forms of Racial Discrimination (1965)

As a follow up to the 1963 Declaration on the same topic, the General Assembly in its resolution 2106 A(XX), adopted the International Convention on the Elimination of all Forms of Racial Discrimination. In this text, racial discrimination is defined as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." Article 5 lists a number of civil and political rights as well as economic, social and cultural rights enunciated in the International Covenants. The Convention also requires that affirmative action in favour of deprived, disadvantaged or vulnerable groups must be taken to ensure non-discrimination and equality of opportunity. Article 1(4) provides that special measures may be taken for the "sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may

be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms. However, as stated in the same article, such measures must not entail as a consequence the maintenance of unequal or separate rights for different groups after the objectives for which they were taken have been achieved.

The principle of non-discrimination is also of fundamental relevance to the right to development and in the DRD has been applied both to individuals and nations. In its application to individuals within nations the principle has also been directly linked to the principle of fair distribution and equality of access and opportunity (arts 2(3) and 8(1)). Article 8(1) also requires States to take affirmative measures in favour of women. Articles 3 and 5 apply these principles to relations between States.

The Convention also guarantees the right to participate of everyone "without distinction as to race, colour, or national or ethnic origin" in political, economic and social fields. Article 5 guarantees political rights, in particular the right to participate in elections; other civil rights such as freedom of movement, freedom of thought, freedom of opinion and expression, freedom of assembly and of association; and economic, social and cultural rights, in particular, the rights to form and join trade unions, to education and training and to equal participation in cultural activities (art. 5(c),(d) and (e)). The concept of participation requires the establishment of equitable and appropriate structures through which this right can be exercised. The DRD emphasizes the central role of participation in the development process in its various articles (arts 1(1), 2(1) and (3), and 8(2)).

These principles of equality and social justice are not only reiterated in article 6 of the DRD, but it goes further to express the indivisibility and interdependence between all human rights and fundamental freedoms. All provisions in the Declaration, including participation, apply to all without distinction.

11. The International Covenants on Human Rights (1966)

Although not adopted by the General Assembly until 1976, the International Covenants were largely drafted in the 1950s, and reflect the climate of that time. The provisions of the International Covenants are of considerable significance to the DRD.

Both Covenants in their preamble state that "...the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his

civil and political rights." The recognition that economic, social and cultural rights as well as civil and political rights are individual rights is derived from the Universal Declaration of Human Rights and forms the basis for the recognition of the existence of the right to development as an individual right in article 1(1) of the DRD. Moreover, it expresses the notion of interdependence between human rights and development. The respect for civil and political as well as economic, social and cultural rights are conditions for the development of human beings. The Covenants, like the Universal Declaration, put all individual rights in the context of the need for an appropriate international social and economic order.

Article 1(1) of both Covenants is of particular significance for the concept of the right to development as the right of peoples and States, with both national and international implications. Article 1(1) proclaims that "all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." It also implies that every State has the sovereign and inalienable right to choose its economic, political, social and cultural system in accordance with the will of its people. This right includes sovereign and permanent control of every State over its natural wealth and resources. Article 1(2) of the Covenants contains the following formulation:

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Sovereignty and political independence of States can only be ensured by their economic independence. The Covenants, thus, emphasize the fact that the right to self-determination has political, legal, economic, social and cultural dimensions, and that it is a continuing right. This is based on the "free disposal" principle, which implies a continuing process of economic relations with other States. In the Covenants this principle is matched with the principle of solidarity which is expressed in article 1(2) as "without prejudice to any obligations". Article 1, in effect, says that States may dispose of their wealth in whatever way they wish, except refuse to contribute to international cooperation for development. The "obligations" referred to are those contained in articles 55 and 56 of the Charter. The principle of self-determination requires the establishment of equitable and appropriate structures through which people can exercise this right. Therefore, at the national level, it entails a corresponding obligation of States to respect the rights of the people under their jurisdiction. At the international

level, it imposes on States the obligation to cooperate in accordance with article 55 and 56 of the Charter. Article 2(1) of the International Covenant on Economic, Social and Cultural Rights imposes upon the States Parties a legal obligation to "take steps, individually and through international assistance and cooperation" for the realization of the rights recognized in this Covenant. It, thus, strengthened the legal basis, first provided for in articles 55 and 56 of the Charter, of the obligation of States to cooperate in achieving economic and social development.

The International Covenant on Economic, Social and Cultural Rights recognized that the realization of economic, social and cultural rights will greatly depend on international cooperation. Article 11 of the same Covenant emphasizes the essential importance of international cooperation to realize the right of everyone "to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". Article 2(1) refers to "international assistance and cooperation" in the context of the duties of States relating to the realization of rights, and article 18 refers to the role of the specialized agencies in the realization of rights. The principle of self-determination and the related solidarity principle are thus seen as the foundation of the right to development and a prerequisite for the realization of the individual rights set forth in both these International Covenants.

The DRD reaffirms that the right to self-determination is multidimensional and a continuing right. Article 1(2) indicates that the full realization of the right to self-determination is a prerequisite for the realization of the human right to development. Articles 2(3) and 8(1) reiterate the universal right of all States to formulate their own development policies, and spell out their corresponding duty towards the people under their jurisdiction. They provide that States not only have a duty to take concrete steps to improve economic, social, political and cultural conditions, but to do so in a manner that is democratic in its formulation and equitable in its results. At the international level, States have a duty to cooperate and create an appropriate international environment for the realization of the right to development (art.3). In articles 3(3),4,5 and 7, the DRD elaborates on the specific measures States and the international community have a duty to undertake in this regard, in particular the formulation of appropriate international development policies.

The principle of non-discrimination is an essential component in the concept of human rights enunciated in both Covenants, and as such is of fundamental relevance to the right to development. Article 2 of each of the Covenants provide that States must guarantee respect for these rights "without

discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." The DRD explores the complementary principles of equality and non-discrimination and applies them to both individuals (arts 2(3),6(1) and 8(1)) and nations (arts 3 and 5). In articles 2(3) and 8(1) non-discrimination has been linked to the principle of equality and is referred to as fair distribution and equality of opportunity and access. Article 8(1) requires States to take affirmative action in favour of women with regard to their role in the development process.

Both Covenants recognize the essential role of participation in fostering respect for human rights. The importance of the concept of participation in relation to education (art.13(1)) and cultural life (art.15(1)) is recognized in the International Covenant on Economic, Social and Cultural Rights. Article 8 guarantees the right of everyone to form or join trade unions of his choice "for the promotion and protection of his economic and social interests". Participation is also one of the objectives of the International Covenant on Civil and Political Rights. The Covenant includes guarantees of the rights to freedom of thought (art.18), to hold opinions (art.19(1)), to freedom of expression (which includes the right to freedom of information) (art.19(2)), to peaceful assembly (art.21), to freedom of association (art.22), "to take part in the conduct of public affairs, directly or through freely chosen representatives"(art.25). Persons belonging to ethnic, religious and linguistic minorities, "in community with the other members of their group" have a right to enjoy their culture, to profess and practise their own religion, and to use their language(art.27). Even though these rights are expressed in terms of individual rights, they are based on the interests of a collectivity, and consequently it is the individual as member of a minority group, and not just any individual, who is destined to benefit from the protection guaranteed by article 27. However, participation in the Covenants is limited to "cultural life" and to "the conduct of public affairs". The DDR emphasizes the central importance of popular participation in various articles and gives it a broader meaning by extending it to include all aspects of development - economic, social, cultural and political (arts 1(1),3(3) and 8(2)). The right to participate is provided for in articles 1 and 2(1) of the Declaration, while articles 2(3) and 8(1) require States to take affirmative measures to ensure popular participation.

Various articles in both Covenants also indicate that these rights have both an individual and collective dimension. Both Covenants proclaim the right to self-determination (art.1). Articles 8 and 10 of the Covenant on Economic, Social and Cultural Rights and articles 22,23 and 27 of the Covenant on Civil and Political Rights refer to at least three kinds of

groups: families, trade unions, and ethnic, religious and linguistic minorities. The individual and collective aspects of these rights may in fact be indivisible as in the case of the right to self-determination, the right to form trade unions and the rights of persons belonging to minorities, because they can only be satisfied through collective action. Moreover, according to preambular paragraph 5 of both Covenants "the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized" in the Covenants. The Covenants thus recognize the crucial importance of democratization of institutions and decision-making processes for the realization of the human rights at the national level. The interdependence between individual and collective rights is also recognized in articles 1(2), 2(2) and 9(1) of the DRD.

The International Covenants implicitly recognize that civil and political rights and economic, social and cultural rights are interconnected and interdependent. The preamble to both Covenants states that "in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights". The DRD is more explicit. In article 6(2) It declares that these rights are indivisible and interdependent, and provides that equal attention be given to both sets of rights.

The DRD recognizes that the right to development is closely and reciprocally linked with the rights enumerated in the two Covenants. It declares that while the development process is necessary for the full realization of these rights, development itself depends on full respect for civil and political as well as economic, social and cultural rights (preambular para. 10). Respect for human rights promotes development, and development aims at the full realization of all human rights. "Development" in other words, is the achievement of human rights through a process which respects human rights.

12. Final Act of the International Conference on Human Rights, Teheran (1968)

The Proclamation of Teheran was proclaimed by the International Conference on Human Rights at Teheran on 13 May 1968. The Proclamation very clearly expressed a departure from the traditional approach that gave priority to civil and political rights over economic, social and cultural rights. It reversed the order of priority in defining the realization of economic, social and cultural rights as a condition for the full realization of civil and political rights. It declared

that "since human rights and fundamental freedoms are indivisible, the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible. The achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international development policies of economic and social development" (art. 13). In situations where a lack of resources or other constraints, especially those which are externally imposed, prevent the enjoyment of human rights, States and the international community have a duty to render assistance according to their abilities. This duty of solidarity arises from the fundamental principle that economic and social progress and development are the common and shared concern and responsibility of the international community. The DRD reaffirms the notion of indivisibility and interdependence of these two sets of rights in its article 6(2). It provides that both sets of rights be given equal attention and represents a departure from the approach taken in the Proclamation of Teheran. Moreover, its tenth preambular paragraph clarifies the notion of indivisibility and interdependence of human rights by emphasizing that the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of others. Article 3 provides that States have the primary duty to create appropriate national and international conditions for the realization of the right to development. In this regard the Declaration emphasizes that States, individually and collectively, have the duty to formulate appropriate national and international development policies (arts 2(3) and 4(1)), assist developing countries with appropriate means and facilities to foster their comprehensive development (art.4(2)), and use the resources released through disarmament for development for developing countries (art.7).

The Proclamation of Teheran acknowledged the importance of participation in relation to the process of development. In article 5 it stated that the primary aim of the United Nations in the sphere of human rights is the achievement by each individual of the maximum freedom and dignity and that for the realization of this objective "the laws of every country should grant each individual, irrespective of race, language, religion or political belief, freedom of expression, of information, of conscience and of religion, as well as the right to participate in the political, economic, cultural and social life of the country". This is the clearest enunciation of a global right to participation in an international instrument. Paragraph 17 also emphasized the importance of participation by youth in decision-making, thus recognizing that the promotion of popular participation can take place in a variety of specific institutional settings and can focus on a number of specific groups within the community. The Conference thus broadened the concept of the right to participate in public affairs and cultural life provided in the International Covenants to include all economic, social

and cultural decision-making. An approach to development which emphasizes the central role of participation also serves to underline the importance of implementing appropriate structural changes which are conducive to full popular participation. The DRD, in several of its articles, reiterates the importance of participation in all aspects of development (arts 1(1),2(1) and (3),8(2)). Article 8 requires States to take positive measures to ensure this right.

The International Conference reaffirmed the fundamental importance of the principle of non-discrimination, which is an essential component in the concept of human rights and as such is of fundamental relevance to the right to development. Article 1 of the Proclamation of Teheran proclaimed that it is imperative that members of the international community fulfil their duties to promote and encourage respect for human rights and fundamental freedoms for all "without distinctions of any kind such as race, colour, sex, language, religion, political or other opinions". Respect for this principle is also emphasized in the context of the right to freedom of expression, of information, of conscience, of religion and of participation (art.5). Moreover, in the preamble to its resolution IX the conference stated that "in accordance with the United Nations Charter and the Universal Declaration of Human Rights, women should be recognized as having a right to the development of their full potentialities...". The principles of non-discrimination and equality are reaffirmed in various articles of the DRD, and are applied to both individuals (arts 2(3),6(1) and 8(1)) and nations (arts 3 and 5). Non-discrimination is referred to as fair distribution and equality of opportunity and access in articles 2(3) and 8(1). Article 8(1) requires affirmative action from States to ensure an active role for women in the development process.

Article 12 of the Proclamation of Teheran recognizes the interdependence between the international justice and realization of human rights. It states that "the widening gap between the economically developed and developing countries impedes the realization of human rights in the international community". The interdependence between the international economic order and human rights and development was also acknowledged in Conference resolution XVII entitled "Economic Development and Human Rights". In this connection, the resolution reaffirmed the principle that in international relations there exists a duty of solidarity which is solemnly recognized in the Charter. The resolution specifically recognized the collective responsibility of the international community to ensure the attainment of the minimum standard of living necessary for the enjoyment of human rights and fundamental freedoms by all persons throughout the world and called upon all States to assume their full responsibility accordingly. Paragraph 12 of the Proclamation of Teheran affirms that the failure to reach the objectives of the first Development Decade made it all the more imperative for every

nation, "according to its capacities" to make the maximum possible effort to close the widening gap between the economically developed and developing countries. Articles 3,4,5 and 7 of the DRD reiterate this fundamental principle and go on to list specific measures that States have a duty to undertake to create an appropriate international environment for the full realization of human rights.

13. The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress, by Manouchehr Ganji, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (1969) E/CN.4/1108/Rev.1

Based on the principle of self-determination all peoples have the right to freely determine their political status and to freely pursue their economic, social and cultural development. The Special Rapporteur states that based on this fundamental principle each State has the right to formulate its own policies to implement the economic, social and cultural rights of its inhabitants, adapted to its particular conditions and needs, and without any external interference (chapter 11,para.35). Therefore, independence, territorial integrity and national sovereignty are preconditions for the effective exercise of all human rights, without which no efforts to promote economic or social development can lead to the creation of a more equal and just society (ch.11, para.36). The DRD reiterates that this fundamental principle is a prerequisite for the realization of the right to development (art. 1(2)). This provides the basis for States to formulate appropriate national development policies (art. 2(3)), and to undertake measures against violations of this right (art. 5).

The Special Rapporteur emphasized the essential role of participation in fostering respect for human rights. He stressed the urgency of strengthening popular participation in politics, planning and development (ch.11,para.42). The success of any economic and social plan that has as its objective the just distribution of income and consumption goods and the well-being of all will depend on the creation of political structures that facilitate the realization of these objectives. Otherwise, in its implementation, those who control power will be in a position to change the projects to suit their own interests (ch.11, para.43) He underlines that the democratization of political structures is a precondition without which it will not be possible to reach the desired level of economic and social progress, whether in terms of quantity or quality (ch.11,para.45). Collective discipline and the participation of all sectors of society are indispensable for the success of economic and social development plans which aim at accelerating the implementation of economic, social and cultural rights of the entire population (ch.11,para.50). The Special Rapporteur states

that "the basic principle governing the question of human rights in development should be ... the participation of the people in deciding their style of individual and corporate life in general, and in particular their participation in decision-making in connexion with development programmes, in the implementation of those programmes and in the benefits derived from them". It is therefore necessary to create everywhere at the local level democratic organizations entrusted with the formulation of development plans. They should be part of a system of local government recognized by the State, endowed with collective power and financial resources, and entrusted also with the implementation of plans at the local level (ch.11,para.122). Moreover, the emancipation of women is indispensable if they are to participate effectively in planning and in the implementation of policies and programmes that should ensure to all, without any discrimination, the enjoyment of their economic, social and cultural rights (ch.11,para.41). The fundamental importance of participation in the development process and in the full realization of human rights is underlined in various articles of the DRD. Articles 2(3) and 8(2) require States to undertake positive measures to ensure popular participation.

Developing countries should carry out fundamental and general reforms, in particular agrarian reform without which inequalities within the rural sector and between the countryside and cities will increase (ch.11,para.49). Such reforms should be based on the principle of social justice, national cohesion and solidarity, equal and unrestricted participation of women in the economic, social, political and cultural life of the country, equal distribution of income, wealth and services, harmonization between living standards in the countryside and cities, increased respect for manual labour, the prohibition of all forms of *de facto* and *de jure* discrimination and the decentralization of decision-making power and of the administration within the framework of a strong central government and a unified national development plan (ch.11,para.50). Articles 2(3) and 8(1) of the DRD require States to formulate appropriate development policies based on the principles of non-discrimination and equality and to undertake structural reforms, both economic and social, with a view to eradicating all social injustices. They require in particular that States ensure equal opportunity and access for all to the country's resources as well as the fair distribution of the benefits of development, including income. Article 8(1) calls on States to take positive measures to ensure an active role for women in the development process.

The Special Rapporteur emphasizes the need for new concept of development, which is human-centered rather than growth-oriented, if underdevelopment and poverty are to be eliminated. The use of macro-economic models and easily quantifiable variables tend to favour the omission of important social and cultural factors of development such as

nutrition, income distribution and popular participation in the decision-making process. It is, therefore, necessary to adopt a unified concept of development planning which gives special attention to problems related to the realization of economic, social and cultural rights (ch.11,paras 55,56). Such a concept requires that an important place be given to certain human and social objectives. Essentially this means responding to the needs of the entire population and ensuring that the development process is primarily aimed at achieving greater equality and justice (ch.11,para.57). The Special Rapporteur emphasizes that economic growth by itself cannot resolve the problems of poverty and human degradation, and ensure social justice. Rather, social justice is a prerequisite for integrated and sustained national development. A development strategy should give high priority to social justice and consider the human being as subject rather than object of development (ch.11,para.63). The human being should not be considered simply as a factor of production but development should aim at realization of the totality of human potentials. Thus, for instance, education should not be seen merely as a means to developing narrowly defined skills and to meeting the manpower needs of the economy. In other words, education should no longer be seen as an activity limited to a definite period but as a permanent process embracing the entire lifetime (ch.11,para.95). The Special Rapporteur, thus, anticipates the definition of "development" in the DRD. Preambular paragraph 2 describes it as a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of all individuals and the entire population based on their effective participation in development as well as in the resulting benefits. Article 1(1) declares the right to development to be an inalienable human right and article 2(1) that the human person is the central subject of development.

The new concept of development must recognize the interdependence and indivisibility of civil and political rights and economic, social and cultural rights. There is no development without democracy, and no democracy without development. The report states that the central element of the new concept of development must be the notion of a broad development strategy that includes the creation of a series of institutions which provide those who are less privileged the possibility to participate in the decision-making processes. Such institutions should contain three essential elements: (1) a decision-making system which enables competent local institutions to take decisions; (2) a system that establishes in strategic spots a base of practical knowledge accessible to the masses, so that decisions can be based on experience and applied knowledge; and (3) the creation of effective links - with regard to finance, technique and planning - between the various layers of the system (multiple relations between the central, provincial and local administrations (ch.11,para.58). The notion of unified national development implies two things:

firstly, that this process is multidimensional and includes economic, social, political and cultural aspects; secondly, that it takes place within the framework of a State with its own conditions and realities. The following phenomena are essential elements of the development process: (1) growth in national income and in the income of each inhabitant; (2) progress in social well-being and social justice; (3) greater national unity and solidarity; (4) greater differentiation in structures/functions; (5) greater national self-reliance; (6) greater self-reliance within the nation itself; (7) strengthening of civil and political identity and culture (ch.11,para.62). The interdependence between development and respect for all human rights is reaffirmed in the DRD. It provides that civil and political rights and economic, social and cultural should be given equal attention for the realization of the right to development (arts 6(2) and 9(1)). Development is defined as the achievement of human rights through a process that respects human rights. Participation is an essential means of achieving both respect for human rights and development. States must therefore undertake appropriate measures, including structural changes, to ensure effective participation (arts 2(3) and 8(2)).

The Special Rapporteur also draws attention to the importance of giving priority to respect for principle of non-discrimination in the development strategy. Because, ensuring economic and social progress for all layers of the population without distinction as to sex, race or ethnic origin, religion, language, place of birth or national or social origin provides the basis for national integration and consolidation, which are in turn the very basis of national independence and development (ch.11,para.75). The DRD reaffirms the importance of non-discrimination, and applies it as well to relationships among States within the international system.

With regard to the environment, the Special Rapporteur states that improvement in the environment should be considered a precondition for the exercise of basic human rights in the economic, social and cultural domains which are interdependent (ch.11,para.115). "Environment" is here understood to include both problems due to "abundance" (industrial pollution) which are felt more particularly in industrialized societies, and problems resulting from poverty - inadequate housing, hunger, sickness - which go hand in hand with underdevelopment (ch.11,para.114). Thus, improvement in the environment is a means of ensuring the exercise of certain human rights, such as right to food, right to an adequate standard of living (ch11,para.117). The DRD declares that it is the primary responsibility of States to create appropriate national conditions for the realization of the right to development (art. 3(1)). Article 8(1) requires States to undertake all necessary measures to ensure equal opportunity for all in their access to health services, food, housing, employment,

education, basic resources and the fair distribution of income. The DRD is applicable equally to developing and developed countries.

14. Declaration on Social Progress and Development (1969)

Some preliminary elaboration of the right to development was achieved in the United Nations Declaration on Social Progress and Development, proclaimed by the General Assembly in resolution 2542 XXVI) of 11 December 1969 which took as its aim "the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights". The concept of "development" is here understood not only in terms of economic and material well-being but as being directed towards the non-material growth of human beings.

The DRD reaffirms a number of principles laid out in this Declaration which can be said to be its predecessor. Article 1 of the 1969 Declaration lays down the first basic principle of progress and development in the social field, and is the most explicit and detailed affirmation of the fundamental importance of respecting human rights in the development process. It proclaims that "all peoples and all human beings, without distinction as to race, colour, sex, language, religion, nationality, ethnic origin, family or social status, or political or other conviction, shall have the right to live in dignity and freedom and to enjoy the fruits of social progress and should, on their part, contribute to it." Similarly, article 2 provides that "social progress and development shall be founded on respect for the dignity and value of the human person and shall ensure the promotion of human rights and social justice". Article 1 recognizes first of all that it is human beings who provide the dynamic force in the development process and it provides that this right should be accompanied by the duty on their part to contribute to it. Thus, development must not be seen as mere economic growth. Not only must the society provide the human being, individually and collectively, with the means to contribute to social development by his own efforts, the progress made by the community should also benefit the individual. Article 2 expresses the interrelationship between development and human rights. Social development should, therefore, be based on social justice, equity and non-discrimination. The DRD reaffirms the interrelationship between human rights and development (art. 1(1)), and declares the human person to be the central subject of development (art. 2(1)). Development is defined not in terms of economic growth but rather as a comprehensive social, economic, cultural and political process which aims at the continuous improvement of the well-being of all individuals and the entire population (preambular para. 2). The DRD reaffirms that the principles of non-discrimination, equality and social justice are of fundamental

importance to the right to development and applies them equally to individuals and States.

The 1969 Declaration emphasizes the fundamental importance of the right to self-determination as a prerequisite for the realization of the right to development. Article 3(a) states that the achievement of "national independence based on the right of peoples to self-determination is a primary condition of social progress and development". It thus recognizes the social aspect of the right to self-determination and that individual rights can only be realized through the exercise of the collective right to self-determination. Individual and collective rights are therefore interdependent and indivisible. Article 2(a) reiterates that social progress and development requires "the immediate and final elimination of all forms of inequality, exploitation of peoples and individuals, colonialism and racism, including nazism and *apartheid*, and all other policies and ideologies opposed to the purposes and principles of the United Nations". Article 3(e) reaffirms "the right and responsibility of each State and, as far as they are concerned, each nation and people to determine freely its own objective of social development, to set its own priorities and to decide in conformity with the principles of the Charter of the United Nations the means and methods of their achievement without any external interference." This right includes sovereign and permanent control of every State over its natural resources, wealth and economic activities (art.3(d)). Article 3 spells out further conditions of social progress and development including national independence, non-interference, and sovereignty and territorial integrity. Articles 2 and 3 recognize the universal right of all States to pursue their own development in an international environment which is conducive to that process. In its article 1(2), the DRD reiterates that the right of peoples to self-determination, including their right to full sovereignty over their natural wealth and resources, is a prerequisite for the realization of the human right to development. On the basis of this right, it reaffirms the right and duty of the State to formulate appropriate national development policies for the realization of the right to development (art. 2(3)).

The 1969 Declaration spells out the corresponding duty of States to respect the rights of peoples under their jurisdiction to freely determine their own objectives of social development, to set their own priorities and to decide the means and methods of their achievement (art.3(e)). Article 2(b) declares that social progress and development requires "the recognition and effective implementation of civil and political rights as well as of economic, social and cultural rights without discrimination." In other words, development that aims at respect for human rights must also have as its condition the respect for human rights. This article also reaffirms principles and concepts such as the

indivisibility of civil and political rights and economic, social and cultural rights, the interaction between individual and collective rights and the interrelationship between national and international justice. Article 2(3) of the DRD requires States to formulate development policies in accordance with the will of its peoples. The right to development can only be ensured through effective participation of individuals and groups, and equal respect for civil and political rights as well as economic, social and cultural must be the condition, and end, of development (arts 1(1), 6(2) and 9(1)). The DRD explicitly states that civil and political rights and economic, social and cultural rights are indivisible and interdependent (art. 6(2)), and requires States to give equal attention to both sets of rights. Article 1(2) reiterates that individual development and fulfilment can only be achieved through the satisfaction of collective prerequisites or, in other words, through the satisfaction of the right of peoples to self-determination.

In subsequent articles the 1969 Declaration spells out further duties of States to ensure social progress and development for all peoples and human beings. In doing so it highlighted the human factor in development efforts and emphasized the notion of accountability. States should (a) assist and protect the family "as a basic unit of society and the natural environment for the growth and well-being of all its members, particularly children and youth" (art.4); (b) fully utilize human resources, including, in particular, encourage creative initiative, inform individuals of changes occurring in society, ensure the active participation of "all elements of society, individually or through associations, in defining and in achieving the common goals of development", and assure disadvantaged and marginal sectors equal opportunities for social and economic advancement (art.5); (c) ensure everyone the right to work and free choice of employment, and establish forms of ownership of land and the means of production based on principles of justice, equality and the social function of property (art.6); (d) ensure the equitable distribution of national income and wealth among all members of society as a major goal and means of development (arts 7, 10(c) and 16); and, finally, (e) ensure progress and well-being of their peoples in planning social development measures (art.8). The Declaration also recognized the central importance of structural change at the national level. Article 8 provided that States have a primary role and ultimate responsibility to introduce "necessary changes in the social structure" in order to ensure social progress and well-being of its people. The emphasis given to the equitable distribution of income and wealth, in particular, expresses an upgrading of human rights concerns in development over growth.

Similarly, the DRD, in elaborating the duties of States to respect the rights peoples living under their jurisdiction to self-determination, called for the respect of human rights (arts 5 and 6); the formulation of appropriate national

development policies (art.2(3)); the effective participation of all persons, including women, in the decision-making process (arts 2(3) and 8); the fair distribution of the benefits among all persons and sectors of society (art.2(3)); equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income (art.8). The DRD reiterated the central importance of structural change at the national level (article 8(1)).

Where the 1969 Declaration differs most from the DRD is in its emphasis on the right to participate "individually, or through associations" (art.5(c)), referring explicitly to private economic organizations such as cooperatives and trade unions (art.15), as well as the important role of the family (arts 4 and 22). The 1969 Declaration similarly recognizes "the diversity of the needs of developing and developed areas, and of urban and rural areas, within each country" (art.8), as well as "differing regional conditions and needs, particularly the development of regions which are less favoured or underdeveloped by comparison with the rest of the country" (arts.14 and 17), indicating the importance of comparing conditions prevailing in different regions and among different socio-cultural groups.

Nevertheless, the basic principles reflected in the 1969 Declaration can also be found in the DRD. Articles 4 and 5(c) of the 1969 Declaration reaffirm the principle of interdependence between individual and collective rights. Both articles recognize that individual development and fulfilment can be achieved only through the satisfaction of collective prerequisites, in the case of the former through the family and in the latter through associations. This interdependence is reflected in article 2(2) of the DRD. Article 5(c) also reiterates the importance of participation in relation to the development process and recognizes the right of all elements of society to participate, individually and collectively, in decision-making in matters relating to social development. The DRD gives a broader conception of this right that extends to all aspects of development - economic, social, political and cultural (arts 1(1), 2(3) and 8(1)). Articles 5, 6, and 7 of the 1969 Declaration reaffirm the principles of equity and social justice and lay the basis for various social reforms. They provide for equal opportunities to disadvantaged and marginal sectors for social and economic advancement, equal rights to land and the means of production, and the equitable distribution of national income and wealth. The DRD contains stronger provisions concerning equality. The principles of social and justice are expressed in terms of fair distribution, equal opportunity and equal access (art.2(3)) art.8(1)).

The 1969 also looks at another dimension of the duties of States in promoting the human right to development, which

corresponds to the universal right of all States to pursue their own development in an international environment conducive to that process. This aspect relates to the duty of States to cooperate to promote universal realization of the right to development. In its fifth preambular the Declaration affirms the interrelationship between individual rights and an appropriate international environment based on the principle of justice: "man can achieve complete fulfilment of his aspirations only within a just social order and that it is consequently of cardinal importance to accelerate social and economic progress everywhere, thus contributing to international peace and solidarity. Preambular paragraphs 6 and 7 emphasize the interdependence between international and national justice: "international peace and security...and social progress and development...are closely interdependent and influence each other"(para.6), and paragraph 7 states that "social development can be promoted by peaceful co-existence, friendly relations and cooperation among States".

In recognition of the interdependence between national justice and international justice, the 1969 Declaration spells out the rights and duties of States to create an international environment conducive to development as well as the principles on which such action should be based. Article 3 lists the following principles as primary conditions on which social progress and development should be based: they include national independence; non-interference; sovereignty and territorial integrity; permanent sovereignty over natural wealth and resources; the right of States, nations and peoples to determine its own objective of social development; and peaceful coexistence, peace, friendly relations and cooperation among States. These rights are based on the fundamental law of the right to self-determination and the principle of international solidarity. The corresponding duties of States as specified in the 1969 Declaration include the "immediate and final elimination of all forms of inequality, exploitation of peoples and individuals, colonialism and racism, including nazism and *apartheid*, and all other policies and ideologies opposed to the purposes and principles of the United Nations" (art.2(b)); "improvement in the position of the developing countries in international trade" (art.7); and, the exploration, conservation, use and exploitation of outer space, sea-bed, ocean floor and its subsoil for peaceful purposes and in the interests of mankind (art.9). Articles 23 to 27 go on to list a number of concrete measures to be taken by States.

The DRD declares that all peoples have a right to development and that it also implies the full realization of the right of peoples to self-determination in all its aspects (art.1). In its article 3 it goes on to reiterate the corresponding duty of States to cooperate with each other for the realization of the right to development. In reaffirming the interdependence between national and international justice the DRD declares

that the primary duty of States is to create an appropriate international environment favourable for the realization of the right to development (art.3(1)). The basic principles with regard to international cooperation that have been referred to in article 3 of the 1969 Declaration as "primary conditions of social progress and development" were later incorporated into the Declaration on principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations" (see below) and is, therefore, implicitly recognized in article 3(2) of the DRD. The articles referred to above also express the notion that the individual right to development can only be realized through the satisfaction of the collective rights of people. Subsequent articles go on to elaborate on the concrete measures States and the international community must adopt, including the formulation of appropriate international development policies (art. 4(1)) and the implementation of structural changes in the international order (arts 3(3),5 and 7)), for the realization of the right to development.

15. Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (1970)

In this Declaration, adopted in resolution 2625(XXV) of October 1970, the General Assembly reaffirms and elaborates the right to self-determination recognized in the first article of the two Covenants. The Declaration proclaims that:

Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State.

(...)

By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

(...)

All States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature.

(...)

Each State has the right freely to choose and develop its political, social, economic and cultural systems.

In other words, it implies that the right of peoples to self-determination involves not only the completion of the process of achieving independence, but is a continuing right which

also requires the recognition of their right to maintain, assure and perfect their full legal, political, economic, social and cultural sovereignty.

The Declaration condemns any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country, yet provides that this not apply wherever colonial or alien domination does in fact exist, under the guise of national unity. Thus, while reaffirming the need to protect sovereign and independent States, the Declaration makes this conditional on the extent to which the State is "possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

This right of peoples gives rise to the corresponding duty to recognize it and to promote it. The Declaration also provides that States have a legal duty to refrain from opposing and impeding the exercise of the right to self-determination. It prohibits States from using or encouraging the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind. These principles of equal rights and self-determination, non-discrimination, and non-intervention are contained in articles 1(2), 3 and 5 of the DRD. Article 3(2), in particular, explicitly requires full respect for these principles as a precondition for the realization of the right to development.

The 1970 Declaration is particularly relevant to the concept of the right to development. The Declaration reaffirms the international duty of solidarity for development expressed in articles 1, 55 and 56 of the Charter. It proclaims the duty of States to cooperate with one another in order to maintain international peace and security and to promote international economic stability and progress and the general welfare of nations. It also provides that States should cooperate in the promotion of economic growth throughout the world, especially that of the developing countries. Article 3 of the DRD is even more explicit about the duty of States to cooperate and its result the right to development.

16. The International Development Strategy for the Second United Nations Development Decade (1970)

The international development strategy adopted by the General Assembly in resolution 2626(XXV) recognized the interdependence between development and human rights in its fifth preambular paragraph. The strategy recognizes that "the success of international development activities will depend in large measure on (*inter alia*)...the elimination of colonialism, racial discrimination, *apartheid* and occupation

of territories of any State and on the promotion of equal political, economic, social and cultural rights for all members of society." The Strategy implicitly recognizes the social content of development and consequently the importance of promotion of social justice. Development is thus seen not only as mere economic growth. The Strategy also recognizes the universal right of all States to pursue their development in an international environment conducive to that process, as well as the importance of self-determination as a prerequisite for the realization of the right to development. The DRD in article 1 recognizes that development contains social, economic, cultural and political aspects. It also reiterates the interrelationship between human rights and rights of the people, while article 1(2) explicitly states that "the human right to development also implies the full realization of the right of peoples to self-determination.

The General Assembly moreover recognized the importance of participation in relation to the development process. In para.78 it states that "every effort will be made to secure the active support and participation of all segments of the population in the development process." This approach to development which emphasizes the central role of popular participation, also serves to underline the importance of implementing structural changes at the national level that are conducive to full popular participation. The DRD highlights the significance of participation for the realization of the right to development by referring to the concept in several of its articles (arts 1(1),2(1) and (3), 8(1)).

Based on the right to self-determination, the General Assembly also affirmed the right and duty of every country to the development of its human and natural resources (para.10). It also reaffirmed the fundamental principle that economic and social progress and development are the common and shared concern and responsibility of the international community, first recognized in the Charter: it states that the full benefits of the country's efforts to develop its human and natural resources "can be realized only with concomitant and effective international action". The responsibility of States to promote the development efforts of other States in terms of a quantitative target for the net transfer of resources from developed to developing countries, first called upon by the international development strategy for the First Development Decade, was reaffirmed in the strategy for the second decade. It called upon each economically advanced country to: (a) "...endeavour to provide by 1972 annually to developing countries financial resource transfers of a minimum net amount of 1 per cent of its gross national product at market prices in terms of actual disbursements..." (para.42); and, (b) "...progressively increase its official development assistance to the developing countries and ... exert its best efforts to reach a minimum net amount of 0.7 per cent of its gross national product at market prices by the middle of the Decade"

(para.43). The recognition of the duty of solidarity is also a reaffirmation of the universal right of all States to pursue their own development in an international environment which is conducive to that process.

Founded on the fundamental law of the right to self-determination guaranteed in article 1 of both International Covenants, these basic principles are reiterated in articles 1(2) and 2(3) of the DRD. Article 1 reaffirms the right of peoples to economic, social, cultural and political development. The corresponding duties of States are spelled out in articles 2(3), 3, 4, 5, 6, 7 and 8. The duty of States to cooperate internationally, which forms a basis of the right to development, finds expression particularly in article 3 of the DRD.

The resolution also recognizes the interdependence between the national dimensions and international dimensions of this right to development. The DRD in its articles 3, 4, 5 and 7 reiterates this interdependence and goes on to describe the specific measures that must be adopted by States for the realization of their right to development.

Paragraph 12 of resolution 2626(XXV) gives equal emphasis to both the right of individuals and collectivities. It provides that "equality of opportunity should be as much a prerogative of nations as of individuals within a nation". This equality is recognized in article 1(1) of the DRD, while article 1(2) recognizes the interdependence between individual and collective rights. This paragraph also indicates the need for both national and international social justice. Articles 2(3) and 8(1) refer specifically to social justice and equality within the nation, while article 3(3) calls for the promotion of a new international economic order based on these principles.

17. International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)

Article II of this Convention, adopted by the General Assembly in its resolution 3068(XXVIII), in defining the crime of *apartheid*, specifically proscribes any legislative and other measures "calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms...". The principle of non-discrimination is of fundamental importance to the DRD, and is applied as well to relationships among States within the international system. In articles 2(3) and 8(1) this principle is referred to as fair distribution and equal opportunity and access.

18. Report of the seminar on the Promotion and Protection of the Human Rights of National, Ethnic and Other Minorities, Chrid, Yugoslavia (1974) ST/TAO/HR/49

Minority groups and their members are also among the subjects and beneficiaries of the right to development. The seminar concluded (para.138) that members of minority groups are entitled to preserve their identity and to enjoy and develop their own culture and traditions in conditions of full equality with the majority while making their own distinctive contribution in all respects to the life and development of the country in which they live. Paragraph 61 and 71 state that they also entitled to enjoy equality before the law, the right to practice their own religion and the right to use their own language. It also concluded that it is an important duty of every State to promote the human rights and equal participation of members of national, ethnic and other minorities in the political, economic, social and cultural life of a country in accordance with the principles contained in the International Covenants on Human Rights.

Participants also emphasized that it is incumbent on all States to ensure that members of minority groups enjoy all the human rights that are enjoyed by the majority and stated that any discrimination against them is contrary to the purposes and principles of the Charter of the United Nations, to conventions or to customary international law.

19. Universal Declaration on the Eradication of Hunger and Malnutrition (1974)

The above Declaration adopted by the World Food Conference and subsequently endorsed by the General Assembly in its resolution 3348(XXIX) proclaims in article 1 that "every man, woman and child has the inalienable right to be free from hunger and malnutrition in order to develop fully and maintain their physical and mental faculties." This recognition of the right of individuals to develop their human potential is reiterated in article 1(1) of the DRD which recognizes the existence of the right to development as an individual right.

20. Declaration on the Establishment of a New International Economic Order (1974)

The Declaration adopted by the General Assembly in its resolution 3201(S-VI) is of significance for the establishment of legal norms relating to the right to development of peoples and States. This Declaration is directed to the international community as well as individual States and other entities. Based on the right to self-determination of peoples stated in

article 1 of the two International Covenants, the Declaration reaffirms the universal right of all States to pursue their own development in an international environment which is conducive to that process. The fundamental importance of the right to self-determination as a prerequisite for the realization of the right to development is underlined in article 3(a) of the Declaration. It calls for the establishment of a new international economic order, which must be founded on full respect for, *inter alia*: the principle of self-determination of all peoples; the right of every country to adopt the economic and social system that it deems the most appropriate for its own development and not to be subjected to discrimination of any kind as a result; and full permanent sovereignty of every State over its natural resources and all economic activities. These express the notions of equity and social justice and, thus, implicitly recognize the social content of development and consequently the social aspects of the right to self-determination. Development should not, therefore, be seen as mere economic growth. It also reiterates the notion that development is inconceivable without effective respect for the right of peoples to self-determination and that, consequently, individual rights and collective rights are interdependent and indivisible. Paragraph 4(c) of the Declaration emphasizes the importance of participation at the international level as a prerequisite for the realization of the right to development. One of the principles included in the Declaration is that there should be "full and effective participation on the basis of equality of all countries in the solving of world economic problems in the common interest of all countries". The DRD reiterates that the realization of the human right to development requires the effective implementation of the right to self-determination in all its dimensions (art.1(2)).

The 1974 Declaration also spells out the corresponding duties of States which has two dimensions, both with international implications. Firstly, it imposes on States the obligation to respect the rights of peoples under their jurisdiction to freely choose their political status and freely pursue their economic, social and cultural development. Paragraph 4(r) declares the need for developing countries to concentrate all their resources for the cause of development. Secondly, it reaffirms the duty of States to cooperate with each other to promote universal realization of the right to development. Paragraph 3 of the Declaration reaffirms the duty of the international community to promote cooperation for development: "international cooperation for development is the shared goal and common duty of all countries". Article 2(3) of the DRD requires States to formulate appropriate national development policies in accordance with the wishes of individuals, groups and peoples within its territory. To do so, States must undertake the necessary measures to ensure effective participation of the entire population in the decision-making processes (arts 2(3) and 8(2)). Various

articles reiterate the fundamental importance of the duty of solidarity among States to ensure development (arts 3,4 and 7). The duty of States to cooperate (art.3(2)) is based on the principles of international solidarity, justice and equity.

The objectives of international cooperation for development are unequivocally stated in the preamble to the 1974 Declaration in which Member States of the United Nations proclaimed their united determination to work urgently for the establishment of a new international economic order "based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries and ensure steadily accelerating economic and social development and peace and justice for present and future generations". The 1974 Declaration reaffirms that the development of peoples and global conditions are mutually dependent. This recognition finds expression in various articles of the DRD. The right of States to pursue their development in an appropriate international environment is the basis of article 3(1) of the DRD which declares that States have the primary duty to create an appropriate an international environment for the realization of the right to development. Articles 3(3), 4,5, and 7 elaborate on concrete measures that States should adopt, including the adoption of appropriate international development policies and structural changes in the international system, and which should be based on principles such as international solidarity, justice and equality.

Paragraph 5 of the 1974 Declaration calls, *inter alia*, for the implementation of obligations and commitments assumed by the international community concerning the "imperative development needs of developing countries", indicating a trend towards recognition of the developing countries as a specific groups of subjects of international economic law. Paragraph 4(c) gives special emphasis to "the least developed, land-locked and island countries, and those most seriously affected by economic crises and natural disasters", and (h) and (i) of the same paragraph refer to a second category which includes those States "which are under foreign occupation, alien and colonial domination or *apartheid*." While the DRD does not specifically mention the first category of States, it does recognize all developing countries (arts 4(2) and 7) as well as the second category of States (art.5) as specific groups of subjects of international law.

21. Charter of Economic Rights and Duties of States (1974)

The Charter of Economic Rights and Duties of States was adopted by the General Assembly in December 1974 in resolution

3281(XXIX). The fundamental purpose of the Charter is to promote the establishment of a new international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems, and to contribute to the creation of conditions for the eradication of injustices and inequalities, for social and economic progress of the developing countries and of other countries and for the strengthening of world peace and security.

The Charter spells out the right and duty of all States to contribute to the solution of global economic problems, in particular to bridging the gap between the developed and developing countries and to enhance the capacity of the latter for individual and collective action. It lays the legal foundation of the new international economic order on which bilateral and multilateral cooperation among States in trade, finance, industry, science and technology, as well as economic matters, should be based and should develop. The Charter is one among other legal instruments that gives content to Article 28 of the Universal Declaration of Human Rights which for the first time recognized the interdependence between the global order and human rights.

The Charter underlines the fundamental importance of self-determination as a prerequisite for realization of the right to development. It declares that "equal rights and self-determination of peoples", "respect for human rights and fundamental freedoms" and "promotion of international social justice" are among the principles which shall govern the economic, political and other relations among States (ch. 1, paras (g),(k) and (m)). Article 1 of the Charter proclaims the sovereign and inalienable right of every State to choose its economic system as well as its political, social and cultural systems in accordance with the will of its people, without outside interference, coercion or threats. In article 2 it recognizes that every State has and shall freely exercise full permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities. The Charter also emphasizes the importance of participation at the international level as a prerequisite for the realization of the right to development. Article 10 provides that all States have the right to participate fully and effectively in the international decision-making process in the solution of world economic, financial and monetary problems, *inter alia*, through the appropriate international organizations. The right to development as a right of peoples and States is reflected in articles 1 and 2(3) of the DRD. In the first article the General Assembly declares that the right to development also implies the realization of the right to self-determination in all its aspects, including the right of peoples to full sovereignty over all their natural resources.

The latter provides that States have the right to formulate their own development policies. Article 3 provides that relations among States within the international system must be based on principles of equality, justice and international solidarity.

In terms of explicit recognition of the link between human rights and the new international economic order, article 7 of the Charter is of particular significance since it is the only article in chapter 11 which does not address itself primarily to the rights and duties of States with regard to other States or the international community as a whole. It thus recognizes the interrelationship between the right of States to a just and equitable international order and the promotion of equity and social justice at the national level.

A dimension of the corresponding duty of States, based on the right to self-determination, which is to respect the rights of people under its jurisdiction to freely pursue all aspects of their development is spelled out in article 7 which provides that the primary responsibility of the State is "to promote the economic, social and cultural development of its peoples". To this end, each State has "the right and responsibility to choose its means and goals of development", "to ensure the full participation of its people in the process and benefits of development", fully to mobilize and use its resources, and to implement progressive economic and social reforms. These provisions anticipate articles 2(3) and 8(1) of the DRD which are similarly based on the principles of equity and social justice. They spell out the duty of States to formulate appropriate national development policies based on principles of non-discrimination, equality and social justice. States should undertake positive measures to ensure the effective participation of individuals, groups and peoples in decision-making, as well as adopt structural changes with a view to eradicating all social injustices.

The second aspect of the duties of States in promoting the human right to development has to do with their relation with other States. The Charter reiterates the fundamental principle that economic and social progress and development are the common and shared concern and responsibility of the international community. Thus, States have a duty to cooperate to promote universal realization of the right to development. In this regard the Charter is more specific about the obligations and responsibilities than the 1974 Declaration on the Establishment of a New International Order. It lays particular emphasis on those States which have been subject to external constraints in the pursuit of their rights. Chapter 1, principle (i) provides that relations among States shall be governed by a number of principles among which is the "remedying of injustices which have been brought about by force and which deprive a nation of the natural means necessary for its normal development. Article 16 (2) has an

important bearing on the question of the right of self-determination and on the realization of the right to development. It stipulates that "no State has the right to promote or encourage investments that may constitute an obstacle to the liberation of territory occupied by force". Some of the provisions indicate a trend towards the recognition of the developing countries as a specific group of subjects of international economic law. Article 9 underlines the duty of all States to cooperate for the promotion of economic and social progress throughout the world, especially that of the developing countries. In Article 17 the general obligation of States to cooperate for development is supplemented by the duty of every State "to cooperate with the efforts of developing countries to accelerate their economic and social development by providing favourable external conditions and by extending active assistance to them, consistent with their development needs and objectives, with strict respect for the sovereign equality of States and free of any conditions derogating from their sovereignty." A similar obligation of all States to "respond to the generally recognized or mutually agreed development needs and objectives of developing countries" is contained in Article 22. Article 25 states that "in furtherance of world economic development, the international community, especially its developed members, shall pay special attention to the particular needs and problems of the least developed among the developing countries." In Article 31 underlines that "all States have the duty to contribute to the balanced expansion of the world economy, taking duly into account the close relationship between the well-being of the developed countries and the growth and development of the developing countries, and the fact that the prosperity of the international community as a whole depends upon the prosperity of its constituent parts."

In the DRD, the duty of States to cooperate is expressed in article 3, which is based on the principles of international solidarity and equality. Articles 3(3), 4, 5, and 7 refer to concrete measures to be taken by States to create an appropriate international environment for the realization of the right to development. The trend towards the recognition of developing countries as a specific group of subjects finds expression in articles 4(2) and 7. In its various articles, the DRD goes on to reaffirm the principles embodied in the Charter. For instance, article 1(2) reaffirms the right of every State to full and permanent sovereignty over its wealth, natural resources and economic activities. Article 15 of the Charter which speaks of the duty of States "to promote...general and complete disarmament under effective international control and to utilize the resources released by effective disarmament measures for the economic and social development of countries" especially that of "developing countries" is reflected in Article 7 of the DRD. The idea contained in article 16 of the Charter that the elimination of colonialism, *apartheid*, racial discrimination, neo-colonialism

and all forms of foreign aggression, occupation and domination as well as their economic and social consequences are a prerequisite for development is explored in articles 3 and 5 of the DRD.

22. ILO Convention 141 on Rural Workers and Recommendation 149 (1975)

This Convention relates to organizations of rural workers and their role in economic and social development. It contains various elements of popular participation relating to freedom of association and trade union freedom, and calls for legal recognition of a universal right of all "rural workers" to form rural organizations "of their own choice", free from state interference. It reaffirms the rights of association and collective action, component rights of the right of participation, and extends these rights from industrial to rural workers. Article 3 of the Convention guarantees that:

"1. All categories of rural workers, whether they are wage earners or self-employed, shall have the right to establish and to join organizations of their own choosing without previous authorization.

2. The principles of freedom of association shall be fully respected; rural workers' organizations shall be independent and voluntary in character and shall remain free from all interference, coercion, or repression.

3. The acquisition of legal personality by organizations of rural workers shall not be made subject to conditions of such a character as to restrict the application of the provisions of the preceding paragraphs of this Article.

4. In exercising the rights provided for in this Article, rural workers and their respective organizations, like other persons or organized collectives, shall respect the law of the land.

5. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Article.

It also provides that States have a duty to take positive measures to promote their growth: active government encouragement to these organizations for their growth and the pursuit of their lawful activities; the removal of legislative and administrative discrimination against such organizations and other obstacles to their growth; and steps to be taken to promote the widest possible understanding of the need to further the development of rural workers' organizations.

Recommendation No.149 adopted by the same ILO Conference advocates that rural workers should be associated with economic and social development action through strong and independent organizations capable of involving them in "the formulation, implementation and evaluation of programmes of

rural development and at all stages and levels of national planning". Rural organizations are envisioned as vehicles to generate knowledge and awareness, to "defend" the "interests of rural workers", and enable more effective "participation" in state structures. It also recommends that such organizations should be able to promote and obtain access of rural workers to services such as credit, supply, marketing, transport and technology, and that they should play an active part in the improvement of general and vocational education and training in rural areas, including that connected with the activities of rural workers' organizations. It also sees rural organizations as vehicles for initiating local, self-managed, self-help projects and group-managed businesses.

Both the Convention and Recommendation recognize the central importance of participation in social and economic development. This approach to development which emphasizes the central role of participation, also serves to underline the importance of implementing appropriate structural changes at the national which are conducive to full popular participation. Moreover, these provisions demonstrate the interrelationship between individual and collective rights. The realization of individual rights are possible only through collective institutions.

The concept of participation is reflected in articles 1,2(1)and(3) and 8(2) of the DRD. Article 2(3) in particular defines participation as being "active, free and meaningful". The DRD underscores the central importance of participation as both a right and a means to realize other rights in people-centred development. It also empowers people, notably the intended beneficiaries of development activities to demand accountability to these principles (compare art.8(1) and 8(2)). The interrelationship between individual rights and collective rights are expressed in articles 1(2) and 2(2)rights.

23. Declaration of Principles and Programme of Action of the World Employment Conference (1976) E/5857

The Declaration adopted by the World Employment Conference is significant because of its recognition of the need for the progressive realization of the right to development within States to accompany and complement the implementation of the New International Economic Order. The "basic needs strategy" adopted by the Conference was the first development strategy that expressed concern for the basic well-being of every individual.

In the Declaration of Principles the Conference noted that past development strategies had failed to eradicate poverty and unemployment and stated its commitment to the attainment of an equitable distribution of income and wealth. The

Conference recalled the Universal Declaration of Human Rights and considered that only productive work and gainful employment, without discrimination, enable the human being to fulfil himself socially and as an individual. It also noted that integrated development of developing countries can be achieved only in so far as equal priority is given to the social, economic and political aspects of development. The DRD defines development as the development of the human person socially, economically, culturally and politically (art.1(1)). It declares the human person to be the central subject rather than object of development (art.2(1)). The principle of equity also underlies the DRD, and it is here referred to as fair distribution of income and the benefits of development, and equal opportunity for all in their access to basic resources, education, health services, food, housing and employment (arts 2(3) and 8(1)). The DRD also emphasizes that the realization of the right to development requires that equal attention be given to civil, political, economic, social and cultural rights (art.6).

The Programme of Action specifies that "strategies and national development plans and policies should include explicitly as a priority objective the promotion of employment and the satisfaction of the basic needs of each country's population" (art.1). It also emphasizes the importance of participation in the development process. The "basic-needs strategy provides for the democratic participation of the people in decision-making: "a basic-needs-oriented policy implies the participation of the people in making the decisions which affect them through organizations of their own choice" (art.3). It indicates that popular participation can contribute to implementation of the "basic needs strategy" by (1) playing a part in the definition of basic needs; (2) enhancing the generation of resources to meet basic needs; (3) improving the distribution of goods and resources; and (4) satisfying the psychological desire to participate in decisions which affect people's lives. To this end, the Declaration of Principles specifically recalls the ILO's responsibility for ensuring respect for the freedoms and rights of association and collective bargaining laid down in certain ILO Conventions. The Programme of Action refers to Covention No.141 relating to rural workers' organizations and emphasizes the role of trade unions and organizations of employers, rural workers and producers in relation to participation in decision-making and implementation procedures at all levels. The Conference thus reaffirmed the interdependence between individual rights and collective rights, because individual rights are ordinarily exercised through institutions. The essential role of participation in decision-making is reiterated in the DRD (arts 1(1),2(3) and 8(2)). It requires States to take positive measures to ensure effective participation.

Basic Needs as defined in the strategy is not globally and rigidly defined, nor limited to providing the subsistence minimum. The Declaration of Principles recognizes the principle of self-determination and the Programme of Action states that "it should be placed within a context of national independence, the dignity of individuals and peoples and their freedom to chart their destiny without hindrance" (art.5). An essential feature of the Basic Needs strategy is that it reconciles concern with economic growth with the objective of meeting the basic needs of the poor. It does not emphasize welfare transfers, but aims at providing the means for the poor to meet their requirements through productive employment. Accordingly, article 4 of the Programme of Action states that: "in all countries freely chosen employment enters into a basic needs policy both as a means and as an end. Employment yields an output. It provides an income to the employed, and gives the individual a feeling of self-respect, dignity and of being a worthy member of society" (art.4). Article 6 states that "in developing countries satisfaction of basic needs cannot be achieved without both acceleration in their economic growth and measures aimed at changing the pattern of growth and access to use of productive resources by the lowest income groups". An essential feature of the Basic Needs strategy is that it reconciles concern with economic growth with the objective of meeting the basic needs of the poor. It does not emphasize welfare transfers, but aims at providing the means for the poor to meet their requirements through productive employment. Accordingly, article 4 of the Programme of Action states that: "in all countries freely chosen employment enters into a basic needs policy both as a means and as an end. Employment yields an output. It provides an income to the employed, and gives the individual a feeling of self-respect, dignity and of being a worthy member of society" (art.4). Article 6 states that "in developing countries satisfaction of basic needs cannot be achieved without both acceleration in their economic growth and measures aimed at changing the pattern of growth and access to use of productive resources by the lowest income groups".

Article 1(2) of the DRD declares that the human right to development implies the full realization of the right of peoples to self-determination. Moreover, the DRD explores the interrelationship between human rights and development, and article 6(2), in particular, requires States to give equal attention to respect for civil and political rights and economic, social and cultural rights. Respect for human rights promotes development and development ensures respect for human rights. The DRD reiterates the importance of ensuring fair distribution and equal access to all individuals and groups of the productive resources.

24. General Assembly resolution 32/130 on human rights and the New International Economic Order (1977)

The General Assembly resolution 32/130 adopted in January 1977 decided that the concept of the indivisibility and

interdependence of all human rights and fundamental freedoms should guide future work within the United Nations system with respect to human rights questions. In the same context the Assembly stated that equal attention and urgent consideration should be given to the implementation, promotion and protection of both civil and political, and economic, social and cultural rights. Accordingly, the DRD provides that the right to development is interdependent with, and indivisible from all other human rights. Article 6(2) reasserts the indivisibility and interdependence of all human rights and fundamental freedoms and requires "equal attention and urgent consideration" to their implementation, promotion and protection.

The General Assembly also recognized the fundamental role of self-determination in promoting the enjoyment of all human rights, including the right to development, and the human significance of the existing and future international economic orders. In its preamble the Assembly expressed its deep concern at the "continuing existence of an unjust international economic order which constitutes a major obstacle to the realization of economic, social and cultural rights in developing countries". In paragraph (e) it decided that "in approaching human rights questions within the United Nations system, the international community should accord, or continue to accord, priority to the search for solutions to the mass and flagrant violations of human rights of peoples and persons affected by situations such as...the refusal to recognize the fundamental rights of peoples to self-determination and of every nation to the exercise of full sovereignty over its wealth and natural resources." It also decided that the future activities of the United Nations would be guided by, *inter alia*, the concept that realization of the New International Economic Order is an essential element for the effective promotion of human rights and fundamental freedoms and should be accorded priority. This resolution reaffirms the concept of interdependence between the global economic order and human rights. It also highlights the fundamental importance of self-determination as a prerequisite for the realization of the right to development.

In article 1(2) the DRD stated that the human right to development also implies the full realization of the right of peoples to self-determination, including their right to full sovereignty over all their natural wealth and resources..Article 3 explicitly recognizes the concept of interdependence between the global economic order and human rights and provides that States have the primary responsibility to create international conditions favourable to the realization of the right to development, and calls on them to promote a new international economic order. However,

the DRD goes beyond the General Assembly resolution in recognizing the need for the progressive realization of the right to development within States to accompany and complement the implementation of a New International Order.

25. Report of the World Conference on Agrarian Reform and Rural Development, Rome (1979) A/54/485

The report of the World Conference on Agrarian Reform and Rural Development was transmitted to the members of the General Assembly by the Secretary-General. The Programme of Action adopted by the Conference indicates a growing concern with the human factor and equity over growth, underlines the importance of people's participation and places emphasis on the notion of accountability. It provides that the national objectives and strategies should focus on the "eradication of poverty, including nutritional improvement, and be governed by policies for attaining growth with equity, redistribution of economic and political power, and people's participation" (p.4). This definition of development goes beyond economic growth and is not satisfied merely by raising material standards of living. Rather it refers to the distribution of power within the country, and focuses on how national decisions are made; who reaps the benefits of socio-economic change; and the problem of external constraints to realization of the right to development. The DRD declares the human person to be the central subject of development, and defines development to be a comprehensive economic, social, cultural and political process which aims at the achievement of human rights through a process that respects human rights.

Thus, the Conference places a strong emphasis on the need for structural transformation at the national level to accompany international reforms. The Programme of Action of the Conference calls for structural change in the distribution of political and economic power. To this end it requires the redistribution of productive resources, based on the principle of equity: "The systems of ownership and use of land and access to water and other natural productive resources are determined by historical, political, social and economic conditions of individual countries. They vary between different countries and constitute the key determinants of rural economic structures, income distribution and general conditions of rural life. Where these systems are judged to be constraints on rural development, achievement of social equity, and wide access to land and other natural resources for the vast majority of rural masses, governments should consider institutional, legal and policy changes within the context of their national and rural development goals, and promote a broad understanding by the people concerned of the need for such measures and of the procedures" (p.6). In a similar vein, the DRD requires States to formulate appropriate national development policies and to undertake economic and

social reforms with a view to eradicating all social injustices. States should also undertake measures to ensure equal opportunity and access for all, without discrimination, to productive resources and the benefits of socio-economic change (2(3)).

The Programme of Action emphasizes the central role of participation for realization of the right to development at the national level: "people's participation is a basic human right and (is) also essential for realignment of political power in favour of disadvantaged groups and for social and economic development" (p.8). Participation contemplates the promotion of local initiatives, a degree of political and economic decentralization, and the voluntary implementation of development programmes and projects. A concerted national effort is thus indispensable to invoke the full participation of all sectors of society. To this end, the Programme of Action calls on governments to undertake measures to:

A. Popular Organization

(i) remove all barriers to the free association of rural people in organizations of their choice and ratify and enforce ILO Convention Nos 87 and 141 and recommendation No.149 on the role of rural workers' organizations in economic and social development;

(ii) encourage the establishment of self-reliant local, regional and national federations of peasant and workers associations and rural cooperatives, with positive Government support and due regard to their autonomy;

(iii) promote the participation of rural people in the activities of rural development agencies and ensure that these agencies work in close cooperation with organizations of the intended beneficiaries of their programmes;

(iv) encourage people's organizations providing various economic, social and cultural services to develop self-reliance at the community level and assist them in such ways as meeting legal and financial requirements, training of leaders and other initial needs, exercising care that their independence is not compromised;

(v) provide opportunities for rural people's organizations to participate at the local level in the identification, implementation and evaluation of development projects, including rural works programmes;

(iv) mobilize the energies of both urban and rural youth for a variety of rural development activities through programmes and mechanisms responding to their needs, abilities and aspirations, including national volunteer services, rural youth associations and work-study programmes.

B. Strengthening of Local Government

(i) decentralize institutions of Government decision-making in particular the planning machinery, within the framework of national policy, to enable people's participation in the planning, formulation and implementation of development programmes relating to their regions or areas. Establish recruitment and staff training policies which ensure support of the interests of the rural poor;

(ii) reform, or where necessary create, institutions of local Government, including local courts, to promote and facilitate democratic and effective participation by the people, including participation by rural workers through organizations of their own, and assist in the management and organization of such institutions through programmes of training and motivation;

(iii) give special assistance to help local Government institutions establish and strengthen educational and training programmes for disadvantaged groups to enhance their capacity to participate in development decisions and to make more effective use of inputs, technology and Government services.

C. Participation in Agrarian Reform

(i) encourage the formation of organizations of the intended beneficiaries of land and tenure reforms and involve them in the redistribution of land and water rights and in the implementation and regulation of tenancy laws;

(ii) channel publicly supplied credit and material inputs through organizations of smallholders, beneficiaries of land and tenure reforms and other peasant groups;

(iii) ensure that organizations of beneficiaries or settlers in settlement schemes have the opportunity of mobilizing labour and other resources for investment in infrastructure."(pp.9-10)

The need for democratization of national and local institutions is based on the right to self-determination, stated in article 1 of the International Covenants, which imposes on States the obligation to respect the rights of peoples under their jurisdiction to freely choose their political status and freely pursue their economic, social and cultural development without discrimination on grounds of race, religion or colour. The recommendations of the Conference are based on the well recognized principles of equity, social justice, self-reliance, non-discrimination (the need for positive discrimination in favour of disadvantaged

groups) and the notion of accountability. The DRD emphasizes the central importance of participation of all individuals, groups and peoples in the decision-making process, and requires States to formulate national development policies and undertake appropriate measures to ensure their effective participation in the decisions that affect them (articles 2(3) and 8).

26. Convention on the Elimination of All Forms of Discrimination against Women (1979)

This Convention was adopted by the General Assembly in its resolution 34/180 of December 1979. It defines "discrimination against women" as "any distinction, exclusion or restriction made on the basis on sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (art.1). The Convention requires States to take affirmative action to eliminate such discrimination. Under article 2 of the Convention, States Parties condemn discrimination against women in all its forms, and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women. Article 3 provides that "States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men". The principle of non-discrimination is an essential component in the concept of human rights and as such is of fundamental relevance to the right to development. In this Convention the concept of non-discrimination is directly linked to the principle of equality. Non-discrimination and equality are fundamental elements in the DRD, and is applied both to individuals and nations (arts 2(3), 3(3), 5, 6(1) and 8(1)). Article 8(1), in particular, requires States to take affirmative action to ensure the role of women in the development process.

Article 14 of this Convention gives content to those universal rights guaranteed by the Covenants which are most relevant to the development process. It focuses primarily on those rights which are particularly important to rural women in relation to their roles and opportunities in development processes and projects. The article reaffirms the principles of interdependence between the respect for human rights and development, equality and social justice, and the right to individual and collective participation through self-reliant organizations.

27. The report of the Secretary General on "The International dimensions of the right to development as a human right in relation with other human rights based on international cooperation, including the right to peace, taking into account the requirements of the New International Economic Order and the fundamental human needs." (1979) E/CN.4/1334

The Commission on Human Rights in resolution 4(XXX111) of February 1977, recommended ECOSOC to invite the Secretary General, in cooperation with UNESCO and other competent organs, to undertake a study on the above subject. The report itself points out⁵ that the reference to the right to development made in the resolution appeared to imply the recognition of the right.

The Secretary-General's report points to the existence of a consensus on the view that the development process requires not only economic growth but should be directed fundamentally to the human person and the realization of his rights. The consensus recognized the following elements to be part of the concept of development:

- "(i) the realization of the potentialities of the human person in harmony with the community should be seen as the central purpose of development;
 - (ii) the human person should be regarded as the subject and not the object of the development process;
 - (iii) development requires the satisfaction of both material and non-material basic needs;
 - (iv) respect for human rights is fundamental to the development process;
 - (v) the human person must be able to participate fully in shaping his own reality;
 - (vi) respect for the principles of equality and non-discrimination is essential; and
 - (vii) the achievement of a degree of individual and collective self-reliance must be an integral part of the process."
- (para.27)

The study adopts a broad and comprehensive approach to defining development. It asserts that respect for human rights is fundamental to the development process, and that it is both a condition and aim of development. Paragraph 129 of the study states that "the relationship between the right to development and other human rights is a fundamental one. The key to its understanding lies in not losing sight of the end through a preoccupation with the means. A development strategy based on political repression and the denial of human rights could perhaps appear to succeed in terms of specific overall economic objectives, but full and genuine development would never be achieved". It also emphasizes the importance of participation, self-reliance, equality and non-discrimination. The DRD, by focusing on the interaction

between both human rights and development issues, brings together two fundamental areas of United Nations activities which have developed as parallel lines. Article 1(1) clearly expresses the reciprocal relationship between human rights and development. Article 9(1) declares that all the aspects of the right to development are indivisible and interdependent and that each of them must be considered in the context of the whole. Article 2(1) provides that the human person is the central subject of development. The essential role of participation, both individual and collective, in development and in the full realization of human rights is a recurrent theme in DRD and is assured for in articles 1,2 and 8. The requirement that development calls for the satisfaction of both material and non-material needs is taken into account in article 1(1) of the DRD. Respect for the principles of social justice, equality and non-discrimination, at the national and international levels, is explicitly required in articles 3(3),5,6(1) and 8(1).

The study places considerable emphasis on the ethical aspects of the right to development, and cites six propositions to support the existence of the right:

"(i) the promotion of development is a fundamental concern of every human endeavour;

(ii) in international relations there exists a duty of solidarity which is solemnly recognized in the Charter;

(iii) the increasing interdependence of all peoples underlines the necessity of sharing responsibility for the promotion of development;

(iv) it is in the economic best interests of all States to promote universal realization of the right to development;

(v) existing economic and other disparities are inconsistent with the maintenance of world peace and stability;

(vi) the industrialized countries, former colonial powers and some others have a moral duty of reparation to make up for past exploitation."(para.38)

The notion of "justice" implicit in the concepts of interdependence, reparation and solidarity are reflected in Articles 3,4,5 and 7 of the DRD. The Declaration is significant in that it contains a strong ethical component in the analysis of international relations.

The study of the Secretary-General concludes that "there is a very substantial body of principles based on the Charter of the United Nations and the International Bill of Human Rights and reinforced by a range of conventions, declarations and resolutions which demonstrates the existence of a human right to development in international law." (para.305)

The report does not only recognize the existence of individuals, peoples and States as subjects and beneficiaries of the right to development, but also groups such as

minorities: "minority groups and their members have a right to share in the development of the whole community, without discrimination" (para.91). Moreover, it points to the interaction between the individual and collective aspects of the right to development. A number of individual rights must ordinarily be exercised through collective institutions. "An example of the interaction between the collective and individual aspects of those rights is the right to form trade unions, which, while applying to the individual, can only be satisfied through collective action" (para.84). The report adds that the "individual development and fulfilment can be achieved only through the satisfaction of collective prerequisites. These include, for example, self-determination and independence of nations, liberation of peoples from colonialism, neo-colonialism and alien economic and political domination; and action by the international community, States, communities and other groups to provide access to necessary resources and services" (para.85). The interdependence between individual and collective rights is expressed in article 1(2) of the DRD, which states that the human right to development implies the right to self-determination of peoples, and article 2(2) which refers to the duties of the individual to the community.

Entities that have duties to promote realization of the right to development include the international community, specialized agencies of the United Nations, States, industrialized States and former colonial powers, regional and sub-regional State groupings, transnational corporations, producers associations, trade unions, and individuals.

The report emphasizes the central importance of participation in the realization of the right to development, and the reciprocal relationship between participation on the one hand, and human rights and economic and social development on the other: it states that participation should be viewed both "as a means to an end and as an end in itself". Moreover, "as a prerequisite for realization of the right to development it is required at all levels ranging from the local through the regional and national to the international." (para.230) In other words, the democratization of institutions and decision-making processes is essential for realization of the right to development at the international level (para.241). The central role of participation, both of individuals and groups within a State and of States within the international system is also highlighted in the DRD (arts 1(1),2(1), (3), and 8(2)).

The report reaffirms the notion of interdependence between national justice and international justice. It is important that one accompanies the other. It states that the extent to which the achievement of the New International Economic Order and other development objectives of the United Nations are interrelated with respect for human rights only serves to

underline the conclusion that promotion of respect for human rights in general, including the human right to development, should be prominent among the stated objectives of a new international development strategy. It also concludes that there is a need to ensure that the promotion of respect for human rights is an integral element in all development-related activities. The DRD defines development as a comprehensive economic, social, cultural and political process that aims at the achievement of human rights through a process that respects human rights. It requires States to formulate appropriate international development policies for the full realization of the right to development.

The reports were considered by the Commission on Human Rights at its 35th session in 1979. In resolution 4(XXXV), the Commission invited the competent economic and social organs of the United Nations to take account of the Secretary General's study in their respective activities and fields and, in particular, invited the Preparatory Committee for the New International Development Strategy to pay due attention to the integration of human rights to the development process.

28. International Development Strategy for the Third United Nations Development Decade (1980)

In its resolution 35/36 of 5 December 1980, the General Assembly adopted the International Development Strategy for the Third United Nations Development Decade. The Strategy highlights both human rights-related issues and the new international economic order, giving importance to the need for structural changes at the national as well as international levels.

Human rights-related goals are given considerable attention in the preamble and in the general statement of goals and objectives. Paragraph 8, in particular, reaffirmed the interrelationship between development and human rights in providing that "the development process must promote human dignity" and that "the ultimate aim of development is the constant improvement of the well-being of the entire population on the basis of its full participation in the process of development and a fair distribution of the benefits therefrom." In addition, paragraph 42 reiterated the need for a unified approach. The Strategy emphasizes the principles of equity and justice over and above economic growth, and reaffirms the central role of participation in the development process. With regard to discrimination against women, paragraph 3 views women's development not only as an issue in social development but as an essential component in every dimension of development. It states that "appropriate measures should be taken for profound social and economic changes and for the elimination of the structural imbalances which compound and perpetuate women's disadvantages". The

relationship between the achievement of human rights and development, as well as the need for structural changes for its realization are elaborated in the DRD, particularly in article 8. The DRD explores the interrelationship between human rights and development. The principles of non-discrimination and equality are also of fundamental relevance to the right to development, and is applied to both individuals and nations in the DRD (arts 2(3), 3(3), 5,6(1) and 8(1)). Article 8(1) gives special emphasis to taking affirmative action to ensure the active role of women in the development process.

Both paragraphs 8 and 51 emphasize the central role of participation in the development process. Paragraph 51 reiterates that the effective participation of the entire population at all stages of the development process should be ensured. This approach to development also serves to underline the importance of implementing appropriate structural changes which are conducive to full popular participation, implying that the democratization of institutions and decision-making processes is essential for realization of the right to development at the national level. The central role of participation in the development process is reaffirmed in various articles of the DRD (arts 1(1),2(1) and (3) and 8(2)). The DRD is, however, more precise about the concept of participation and applies it also to States in their relationship with other States. Article 1 specifies that both individuals and peoples have the right to participate in economic, social, cultural and political development, while article 2(3) provides that such participation must be "active, free and meaningful". It also provides that States must not only take concrete steps to improve economic, social and cultural conditions, but must do so in a manner that is democratic in its formulation and equitable in its results (art.2(3)).

In the formulation of the aims of the International Strategy for Third Development Decade, the General Assembly recognized the mutual relationship between the international economic order and human rights. The Strategy aims at "the promotion of the economic and social development of developing countries with a view to reducing significantly the current disparities between the developed and developing countries, as well as the early eradication of poverty and dependency, which, in turn, would contribute to the solution of international economic problems and sustained global economic development, and would also be supported by such development on the basis of justice, equality and mutual benefit" (para.7). A large portion of section 111 is concerned with specific goals related to the new international economic order. In the Strategy, the need for a new and more just order is applied to both international and the national levels. Only if the drive for a new world order is accompanied by greater internal distributional justice will its ultimate beneficiaries be the people

themselves. This relationship between national justice and international justice is elaborated in the DRD, particularly in article 1(2) which states that the human right to development also implies the realization of the right of peoples to self-determination, and in article 3(1) which gives equal emphasis to the necessity for creating both national and international conditions favourable to the realization of the right to development.

29. The Secretary General's report on the regional and national dimensions of the right to development (E/CN.4/1421: introduction and first part; E/CN.4/1488: second and third part, published in 1980 and 1981 respectively)

The Secretary-General's report analyses the general concept of a structural approach as well as certain structures and problems at the national which constitute obstacles to realization of the right to development, especially in developing countries. It is based on the principle that it is "the right and responsibility of each State and, as far as they are concerned, each nation and people to determine freely its own objectives of social development, to set its own priorities and to decide in conformity with the principles of the Charter of the United Nations the means and methods of their achievement without any external interference".

The structural approach helps demonstrate the relationship between human rights violations, in particular the right to development, and the structures that give rise to this problem. Human rights violations do not occur in a vacuum. Rather, they are viewed as "natural consequences of systems rooted in injustice and inequality and which are often created and reinforced by a range of consciously pursued political, social and economic policies" (para.13). Such policies are then inconsistent with the right to development. Policies formulated to promote realization of the right to development at the national level must, therefore, "focus as much on the democratic transformation of existing political power structures as on the quest for achieving more equitable economic and social policies and structures" (para.27).

It states that structures that facilitate the realization of the right to development at the national level are "those which enable people to control their own destinies and to realize their full potentials" (para.15). The report emphasizes that States must not only take concrete steps to improve economic, social and cultural conditions, but do so in a manner that is democratic in its formulation and equitable in its results. It emphasizes the fundamental relevance of the principles of participation and equity for the right to development. For instance, land reform and related measures must be "undertaken democratically and in such a way that both the resources and the consciousness of the people are

mobilized. In particular, land reform measures should be accompanied by respect for the right to freedom of association and should provide for full peasant participation in the discussion and implementation of land-related policies" (para.37). The report also reiterates that the principle of non-discrimination is an essential component of human rights and, consequently, of fundamental relevance to the right to development. It points out that with respect to the right to development the concept has been linked with the principle of equality of opportunity (para.195). However, for effective development formal equality of opportunity is not sufficient. The report hence concludes that "promotion of the right to development at the national level requires positive and unceasing efforts to eradicate racially discriminatory practices and to promote social harmony and well-being" (para.198). With regard to discrimination based on sex, the report is categorical. It states that discriminatory policies and practices based on sex are clearly incompatible with realization of the right to development at the national level.

The report also highlights the interrelationship between participation and human rights: "the full and enduring realization of all human rights must be predicated upon the ability of people to participate in making the decisions which can control or alter the conditions of their very existence. In the absence of genuinely participatory structures and mechanisms a true spirit of respect for human rights cannot prevail" (para.98). Component rights of participation include the right to hold opinions, the right to freedom of expression and information, freedom of association, the right to take part in the conduct of public affairs, and are fundamental to realization of the right to development. Effective development does not only require absence of repression but also affirmative action by States to introduce structural changes "conducive to full popular participation" (para. 112).

The DRD defines development as a comprehensive economic, social, cultural and political process, which aims at the achievement of human rights and development of all individuals, groups and peoples, through a process that respects human rights. It provides that what development means is subjective and requires the effective participation of all in decisions that affect them. It is therefore a concept going beyond economic growth and the mere raising of material standards of living, and refers to the distribution and use of power within a country. Toward this end, article 2(3) imposes the duty on States to formulate appropriate national development policies. Article 8(1) requires States to undertake all necessary measures for realization of the right to development and to effect appropriate economic and social reforms with a view to eradicating all social injustices. The DRD also emphasizes the fundamental importance of popular participation to the realization of the right to development, and refers to it in various articles

(arts 1(1),2(1) and (3), and 8(2)). An approach to development which emphasizes the central role of participation also serves to underline the importance of implementing appropriate structural changes which are conducive to full popular participation. It requires the promotion of local initiative, a degree of political and economic decentralization, and the voluntary implementation of development projects.

The right to development is also based on the principles of equality, non-discrimination and social justice. The DRD applies these to both individuals and nations. In articles 2(3) and 8(1) these principles are referred to as fair distribution and equality of opportunity and access. Article 8(1) calls for affirmative action to ensure an active role for women in the development process. Article 8(1) also requires States to undertake appropriate economic and social reform to eradicate all social injustices.

The report of the Secretary-General furtherfore reaffirms and underlines the importance of the concept of indivisibility and interdependence between civil and political rights and economic, social and cultural rights for realization of the right to development. In paragraph 98, it states that the exercise of the various rights to participate are crucial in ensuring satisfaction of the right to food. At the same time, "enjoyment of rights such as the rights to food, health care and education, to mention only a few, is essential for the effective exercise of civil and political rights relating to participation (para.109). Article 6(2) reaffirms the indivisibility and interdependence between both sets of rights.

Moreover, the report also points to the interdependence between the right to development and the rights enumerated in the two International Covenants on Human Rights. It reiterates that "a development strategy based on repression and the denial of either civil and political rights or economic, social and cultural rights, or both sets of rights, not only violates international human rights standards but is a negation of the concept of development" (para.139). An approach which gives priority to economic growth over human development objectives (which include concepts such as equity, non-discrimination, social justice, self-reliance) is incompatible with the human rights obligations of States, in particular the right to development (chapter IX). In this regard the report is unequivocal: "any consciously designed development strategy which directly involves the denial of fundamental human rights, in whatever name or cause it may be undertaken, mut be deemed to be a systematic violation of the right to development" (para.159). Moreover, "the persistence of conditions of underdevelopment, in which millions of human beings are denied access to sufficient food, water, clothing, shelter and medicines and are forced to live in conditions

which are incompatible with their inherent human dignity, clearly represents a gross and massive violation of human rights" (para.160). Development is therefore a process integrating all human rights. Respect for human rights promotes development, and development aims at the full realization of all human rights. The DRD defines development in human terms. Article 2(3) imposes the duty on States to formulate appropriate national development policies accordingly. Article 9(1) of the DRD, in particular, expresses the concept of interdependence between the right to development and all human rights and fundamental freedoms.

The report states that the practical implications of the right to development for the international community is "to ensure the integration of human rights concerns in development plans and strategies at the international level and to encourage a similar approach at the national level" (para.183). In this regard, the report mentions some of the possibilities. They include the use of international human rights standards as a validity criterion for United Nations development activities (paras 185,186); requiring a 'human rights impact statement' prior to the commencement of development projects, or in connection with the preparation of overall development plans or programmes (para.187); providing governments with advisory services of experts in promoting respect for the right to development (para.188); promotion of the right to development by the international financial institutions, notably the World Bank and the International Monetary Fund (para.189); and, the inclusion of human rights as a factor in reports assessing development progress (paras 190,191). The DRD reiterates the fundamental importance of the international duty of solidarity for realization of the right to development. It requires all States and the international community to formulate appropriate international development policies and to undertake structural changes in the global order for the realization of the right to development.

30. Study on the Right to Self-Determination, prepared by Hector Gros Espiell, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (1980) E/CN.4/Sub.2/405/Rev.1

In paragraph 45 the Special Rapporteur indicates that implementation of the right of peoples to self-determination involves not only the completion of the process of achieving independence or other appropriate legal status by the peoples under colonial and alien domination, but also the recognition of their right to maintain, assure and perfect their full legal, political, economic, social and cultural sovereignty. In this regard the Special Rapporteur states that the right of peoples to self-determination has lasting force, does not lapse once it has been exercised to secure political self-determination, and extends to all fields including economic,

social and cultural affairs. He also emphasizes that the political, economic, social and cultural aspects of the right are interdependent and indivisible since "each of them can only be fully realized through the complete recognition and implementation of the others. He reaffirms that the economic content of the right is expressed first "in the right of peoples to determine, in freedom and sovereignty, the economic system or regime under which they are to live" (para.135). Moreover, "this right will be of lasting efficacy and will continue to take effect in the future, which is of particular significance, in view of all the neo-colonialistic and neo-imperialistic schemes, whatever form they may take, to dominate the new States which have come into being as a result of the exercise of the right to political self-determination, through their power or unlawful intervention in the economic field" (para.135). The economic content of this right finds its expression in particular "in the right to permanent sovereignty over natural resources" which includes "problems raised by nationalizations and the harmful activities that may be undertaken in this area by transnational or multinational enterprises" (para.136). The Special Rapporteur emphasizes that the economic content of the right to self-determination applies both to peoples who have not yet achieved independence and to those who have already formed independent States. In this regard, the report states that "this right of peoples to self-determination exists, in its economic aspects,...both in cases where the people concerned has not yet attained its political self-determination and is still struggling against colonial and alien domination, and where the people has formed a political entity or sovereign State as a result of the prior exercise of its right to self-determination" (para.137).

With regard to the social aspects of the right to self-determination, the Special Rapporteur reaffirms that "every peoples has the right to choose and determine the social system under which it is to live, in accordance with its free and sovereign will and with due respect for its traditions and special characteristics" (para.152). The social aspects of this right are based, in particular, on the principle of social justice which contains both individual and collective dimensions that are interdependent and indivisible. According to the Special Rapporteur, all people are entitled to social justice which "in its broadest sense, implies the right to the effective enjoyment by all the individual members of a particular people of their economic and social rights without any discrimination whatsoever" (para.153). Since the right to development is based on the right to self-determination which includes also social aspects, development cannot be seen merely as economic growth. Consequently, "development, which is not the same as mere economic growth, is inconceivable without effective respect for the right of peoples to self-determination" (para.155).

The Special Rapporteur furthermore elaborates on the cultural aspects of the right to self-determination. "Every people, in the exercise of its right to self-determination, has the right to determine and establish the cultural regime or system under which it is to live; this implies recognition of its right to regain, enjoy and enrich its cultural heritage, and the affirmation of the right of all its members to education and culture" (para.158). This right equally applies to people subject to colonial or alien domination as well as to peoples which have achieved independence through the exercise of its right to self-determination. The Special Rapporteur emphasizes the importance of the cultural aspects of self-determination for effective participation. He states that "the efficacy of the right of peoples to self-determination in its cultural aspects is essential in order that a people may ~~be aware of its rights and consequently be fully capable of~~ fighting for their recognition and implementation" (para.160). Implicit in this affirmation is the idea that all aspects of development are interdependent and indivisible.

This right of peoples to self-determination forms the basis of the recognition of the right of peoples to development in its economic, social, cultural and political aspects (art.1 of the DRD). Article 1(2) reaffirms that the right to self-determination includes the inalienable right of peoples to full sovereignty over all their natural wealth and resources. Article 2(3) reiterates that States have the right to formulate appropriate national development policies in accordance with the will of its peoples. Article 5 requires States to take steps to eliminate all forms of foreign domination, external aggression and the refusal to recognize "the fundamental right of peoples to self-determination".

The Special Rapporteur reaffirms that the right to self-determination has both collective and individual dimensions. "The effective exercise of a people's right to self-determination is an essential condition or prerequisite...for the genuine existence of other human rights and freedoms. Only when self-determination has been achieved can a people take the measures necessary to ensure human dignity, the social and cultural progress of all human beings, without any form of discrimination" (para.59). Article 1(2) of the DRD declares that the human right to development also implies the full realization of the right of peoples to self-determination, thus reaffirming that both individual and collective rights are interlinked.

The study underlines the fundamental importance of the right to self-determination for realization of the right to development. It states that the full recognition and effective exercise of the right of peoples to self-determination and the elimination of colonialism and neo-colonialism are prerequisites for development. "The legal acceptance and truly effective exercise of the right to

complete development of peoples struggling for their self-determination - a right which is, of course, also held by States, especially the developing States - can be achieved only if the right of peoples to self-determination is recognized and implemented" (para.144). Article 1(2) of the DRD clearly expresses the idea that the right to self-determination is a prerequisite for the enjoyment of individual rights, including the right to development.

The right to self-determination entails the corresponding duty of States and the international community to recognize and promote it. States have a duty to cooperate not only to ensure peoples under foreign domination to political independence but also to ensure that "those peoples which have already become independent ... achieve their complete sovereignty and full development" (para.61). The DRD reaffirms the principle of duty of solidarity and requires all States and the international community to undertake measures for the realization of the right to self-determination and the right to development.

The right to development has both individual and collective dimensions. The Special Rapporteur expresses the relationship in the following terms: "(The) right to the full development of the individual - which has made it possible to describe the right to development very properly as a fundamental human right - is a basic one which at the same time conditions and implies the right to development of developing States and peoples. The progress of the latter is justified in as much as development serves to improve the economic, social and cultural circumstances of every human being" (p.42). At the same time it demonstrates that the individual and collective aspects of the right to development may be indivisible. Individual rights must often be exercised through collectivities. This interrelationship between human rights and development is explored in the DRD, and article 6(2) in particular, requires States to give equal attention to civil and political rights and economic, social and cultural rights. Article 9(1) reiterates that the right to development and all human rights are interrelated and interdependent.

31. Study on The Right to Self-Determination: Historical and Current Development on the basis of United Nations Instruments prepared by Aureliu Cristescu, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (1981) E/CN.4/Sub.2/404/Rev.1

In May 1974, the Economic and Social Council, on the recommendation of the Commission on Human Rights, authorized the Sub-Commission to designate a special rapporteur to carry out the above study which had been approved by the General Assembly in its resolution 3070(XXXVIII) of 30 November 1973.

The fundamental importance of the right to self-determination as a prerequisite for the realization of the right to development is underlined in this study. It expresses the view that the basic element of the right to development and of the right of peoples to self-determination is permanent sovereignty over natural resources. "Responsibility for development lies primarily with the developing countries themselves, which must mobilize to this end all their wealth and resources, but their permanent sovereignty over their wealth and resources must be respected and strengthened permanent sovereignty being also a basic factor for their economic and social development and their political independence" (para.699). Therefore, respect for and promotion of the right of peoples to permanent sovereignty over their wealth and natural resources are prerequisites for realization of the right to development and the right to self-determination (para.709). The DRD reiterates that the right to self-determination of peoples, including their right to permanent sovereignty over all their natural wealth and resources, is a prerequisite for the realization of the right to development (art. 1(1)).

The Special Rapporteur underlines the interrelationship and interdependence between the right to self-determination and human rights, which also includes the right to development. States have an obligation to respect the right of peoples freely to determine their political status and to pursue their economic, -social -and -cultural development -since -the -enjoyment of the right to self-determination is essential to the exercise of all individual rights and freedoms. Moreover, the right to self-determination also implies "that governments owe their existence and powers to the assent of their peoples". At the same time, the realization of the right to self-determination requires respect for human rights: "the promotion and protection of human rights and fundamental freedoms contributes to the implementation of the right to self-determination; the guarantee and observance of the various individual human rights and freedoms contribute, in the area of their exercise, to the realization of the different aspects - political, economic, social or cultural - of the right to self-determination" (para.692). Article 1(2) of the DRD declares that the realization of the human right to development implies the realization of the right to self-determination. Article 2(3), 6(2) and 9(1) require the integration of human rights in the development process, as a condition for the realization of the right to development.

The realization of the right to development requires that structural reform should be undertaken at both international and national levels. The report defines development as a concept going beyond economic growth and the mere raising of material standards of living. It focuses on the individual as the central subject of the right to development and refers to the distribution and use of power within, or against, a

country that is undergoing change. "The real purpose of the new international economic order is not the material growth of nations, but the development of all men and women in every way, in a comprehensive cultural process involving profound values and embracing the national environment, social relations, education and welfare; in other words, the achievement of man's economic, social and cultural rights, or human development, for the benefit of man, must be the central factor in the development process. It is the key factor in economic and social development, which must be directed towards fulfilling the needs of an evolving and constantly diversifying human existence, and the unhampered affirmation, at all levels, of the human personality" (para.708). As such, this definition focuses on how national and international decisions are made, who reaps the benefits of socio-economic change, and the problem of external constraints on a country's freedom of choice in directing the course of its own socio-economic change. The right to development is, in fact, "a means of ensuring social justice at the national and international levels, a better distribution of income, wealth and social services, the elimination of poverty and the improvement of living conditions for the whole population" (para.707). To achieve these goals, the Special Rapporteur states that there must be an expansion of the national product and specific social and economic policies aimed at equal distribution of income and wealth. However, the redistribution of income through transfers and the provision of social services are merely corrective measures. The creation of democratic structures are required for the achievement of greater equality: "the initial organization of the distribution of income is a determining factor in its structure and the principal instrument for the achievement of greater equality, having direct impact on the level of income and wealth of individuals and groups. It is an economic and social measure that has repercussions in all fields, particularly on employment and wages, investment, the democratization of wealth, fiscal policy and social welfare" (para.707). Since the driving forces of development are peoples and nations themselves the Special Rapporteur emphasizes the central role of participation in the development process. Development must be defined within each specific context and based on popular participation. The report states that "development can be neither exported nor imported. On the contrary, it implies the taking into account of many economic, technical and social parameters and a choice of priorities and growth rates on the basis of a knowledge of specific needs, conditions and possibilities, and the participation of the whole community, animated by a common ideal and by individual and collective creativity, in the search for the solutions which are best adapted to the local conditions, needs and aspirations" (para.711). This requires the creation of "structures and institutions that will ensure the creative participation of the people, fairness in the distribution of the fruits of development and the focusing of

all efforts on the main directions of development" (para.711). In this way, the Special Rapporteur anticipates the various provisions of the DRD which defines development in human terms, declares the human person to be the central subject of development, underlines the central importance of participation, requires States to formulate appropriate development policies and to implement structural reforms with a view to eradicating all social and injustices, and underlines the importance of applying the principles of non-discrimination, equality, justice in the development process.

The Special Rapporteur underlines that social justice at the national level is closely linked with social justice at the international level. Respect for human rights and development requires a just and equitable global order. For the "genuine promotion of fundamental human rights and ...economic, social and cultural development, it is imperative to establish a new international economic order based on the sovereign equality of States and respect for the equal rights of all peoples, an order that also guarantees the integrated economic, social and cultural development of every people and every State, in accordance with its aspirations to progress and well-being" (para.701). He also points out that the right to development is becoming an essential factor in the context of the establishment of such an order. Structural changes are relevant "particularly, in regard to trade, credits and financial assistance, prices and the marketing of products". The achievement of international social justice would require structural changes at the international level and the establishment of a new international economic order. But, because there is a close correlation between the prosperity of the developed countries and the growth and development of the developing countries, the development and well-being of individuals and peoples will depend "on the existence among all the members of the international community of a spirit of cooperation based on sovereign equality and the elimination of the imbalance between them, on the realization of their aspirations and on the right of all peoples to ensure their political, economic, social and cultural development" (para.707).

The report stresses that the realization of the right of peoples to self-determination is an essential means of achieving a new international order and a better, more just and equitable world (para.713). "The right of peoples to self-determination has acquired importance as an essential pillar in the construction of the new international economic and political order, since the political, economic, social and cultural problems of mankind are intimately linked and call for concerted action and because economic emancipation is an essential factor for the elimination of political domination" (para.696). Since developing countries are denied their right to equality and effective participation in international progress, there is a necessity to democratize international

structures. In this regard, the Special Rapporteur states that "a prerequisite for, and a vital component of, the new international economic order is a new political order for the system of inter-State relations, in other words, the construction of those relations on the basis of the fundamental principles and norms of international law in such a manner as to guarantee and ensure, in practice, full equality of rights for peoples, respect for their independence and national sovereignty, non-interference in their internal affairs and mutual advantage". The Special Rapporteur thus reaffirms the central importance of participation of all States in the "preparation and adoption of decisions concerning the international community" (para.698). The DRD reiterates that the creation of an appropriate international environment is a condition for the realization of the right to development. It requires States and the international community to formulate appropriate international development policies and undertake structural reforms in the global order, based on principles of solidarity, justice and equality.

Finally, the Special Rapporteur, reaffirms that the right to development is closely and reciprocally linked with civil and political rights as well as economic, social and cultural rights. "The right to economic, social and cultural development and to political progress is based on respect for the dignity and value of the human person, on the immediate and complete elimination of all forms of inequality, exploitation of peoples and individuals, colonialism and racism, including Nazism, *apartheid* and all other practices and ideologies inconsistent with the purposes and principles of the United Nations concerning the recognition and effective observance of civil and political rights and economic, social and cultural rights, without any discrimination. At the same time, development also ensures the promotion of human rights and social justice" (para.712). Development is therefore a process integrating all human rights. Respect for human rights promotes development, and development ensures human rights. Articles 6(2) and 9(1) of the DRD reaffirm the concept of indivisibility and interdependence of all human rights.

32. Study of the new international economic order and the promotion of human rights, prepared by Raul Ferrero, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (1983) E/CN.4/Sub.2/1983/24 and Add. 1 and 2

On the basis of a recommendation made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in resolution 8(XXXII) of September 1979 and approved by the Commission on Human Rights, in its resolution 18 (XXXVI) of 29 February 1980, the Economic and Social Council, by its decision 1980/126 of 2 May 1980, authorized the Sub-Commission

to appoint Mr Raul Ferrero Special Rapporteur to prepare a study on the new international economic order and the promotion of human rights. In his study the Special Rapporteur was asked to take into account the conclusions of the seminar on the effects of the existing unjust international economic order, to be held in 1980, to examine the effect that the new international economic order would have on the implementation of some human rights and fundamental freedoms, and to collect and analyze from a human rights perspective recommendations and guidelines contained in resolutions and reports adopted by organs of the United Nations system.

The major objective of the Study was to demonstrate the fundamental links which exist between the achievement of full respect for human rights and the establishment of an equitable international economic order. The Study was also designed to lay the basic groundwork for the future examination of specific issues, such as the study on the right to food as a human right.

The Special Rapporteur reaffirms the link between human rights and development in asserting that "development is a concept which ought to focus on the human element, on people, who must be both its agents and its beneficiaries, and it should be based on the individual definition which each society forms of it, founded on its own values and objectives (para.293). He also defines development to mean both material and non-material aspects of development: "the concept of 'development' should not be interpreted solely in terms of economic and material well-being but in much broader terms covering the physical, moral, intellectual and cultural growth of human beings" (para.292). Accordingly, the DRD defines development as being "a comprehensive economic, social, cultural and political process" (preamble para.2). Article 2(1) provides that the human person is the central subject of development and should be both active participant and beneficiary of the right to development.

The report reiterates the interdependence between respect for human rights, in particular the right to development, and the global order. "The existing unjust international economic order is a genuine obstacle to realization of the human rights and fundamental freedoms proclaimed in the United Declaration of Human Rights, in particular in article 25, which states that everyone has the right to a standard of living adequate for health and well-being of himself and of his family" (para.142). In a concluding paragraph it underlines the importance of establishing a new international economic order centered on the human being and states that "the central or basic element in its establishment must be man, whose essential dignity must be defended and protected; it must accordingly be understood that the ultimate goal of the new order is respect for human rights and fundamental freedoms"

(para.286). The Special Rapporteur also reminds that the "objective of a new international economic order does not relate solely to economic issues as such. Its aim is not only the reassessment of things and their more equitable distribution, but also the development of all men and of all aspects of man, in a global cultural process which embodies values and encompasses the national context, social relations, education and well-being" (para.284). The report thus reaffirms the fundamental importance of the right to self-determination in all its aspects as a prerequisite to realization of the right to development. Article 1(2) of the DRD explicitly states that the human right to development also implies the full realization of the right of peoples to self-determination, which includes the exercise of their inalienable right to full sovereignty over their natural wealth and resources. Article 3 emphasizes the importance of creating an appropriate international environment for realization of the right to development, and calls for structural reform of the international system particularly the promotion of an equitable and just international economic order.

The report also reaffirms the fundamental principle first recognized in the Charter, that economic and social progress and development are the shared concern and responsibility of all States. Based on the universally recognized right of peoples to freely determine their political status and freely pursue their economic, social and cultural development in an environment which is conducive to that process, States have a duty of solidarity to establish a new order based on two important sets of principles: "(i) sovereign equality of States, self-determination of all peoples, inadmissibility of the acquisition of territories by force, and territorial integrity; and (ii) the right of the developing countries and the peoples of territories under colonial and racial domination and occupation to achieve their liberation and to regain effective control over their natural resources and economic activities" (para.148). International action must have as its guiding principles justice and equality (para.140). The study concludes that "international cooperation should be aimed at remedying the lack or scarcity of economic resources, and the recipient States are under an obligation to participate in such cooperation. It is implicit in the right to development that States should agree to assist one another when external factors obstruct the effective implementation of human rights (para.287). Article 3(1) of the DRD provides that it is the primary responsibility of States to create an appropriate international environment favourable to the realization of the right to development. 3(3) declares that States have the duty to cooperate in ensuring development as well as in eliminating obstacles to development, and that they should realize their rights and fulfil their duties in a manner that promotes a new international economic order based on sovereign equality,

interdependence, mutual interest and cooperation. Article 4(2) requires international cooperation to complement efforts of developing countries by providing them with "appropriate means and facilities to foster their comprehensive development". Article 1(2) declares that the human right to development also implies the realization of the right to self-determination understood in all its aspects.

For realization of the right to development, the democratization of structures at the international level must be accompanied by democratization of national structures. The Special Rapporteur states that "greater internal distributional justice must be achieved in the developing countries so that the ultimate beneficiaries of the drive for a new world order will be the people themselves" (para.152). The concept linking the structural changes at both levels is that of participation. Participation is thus the central element and prerequisite for realization of the right to development. At the national level "one method whereby human rights can be truly and effectively safeguarded internally is through fair participation in which the people can express their own will in a free and responsible manner, thus enabling all the members of the community to fulfil themselves and exercise conscious freedom of choice. Workers and their organizations should participate not only in the management of public, economic, social and cultural affairs as part of the democratization of the State, but also in the decision-making processes of economic, labour and social planning, in the determination of social development goals and in the creation of conditions for achieving those goals" (para.288). The same principle must also apply at the international level, and developing countries must "participate in the decisions which concern or affect them" (para.160). The international community is also responsible for ensuring the right to participation of groups and peoples. The DRD proposes to achieve this distributional justice by ensuring the active, free and meaningful participation of all individuals and the entire population (art.2(3)) in decision-making, the fair distribution of income and the benefits of development, and equal opportunity and access to basic resources, development, health services, food, housing and employment.

The Special Rapporteur reaffirms that the right to development "relates as much to the enjoyment of economic, social and cultural rights as to civil and political rights", and that it has both individual and collective dimensions (para.192). Article 6(2) of the DRD reiterates the indivisibility and interdependence all human rights, without discrimination, and requires States to give equal attention to both sets of rights.

Among the broad conclusions of the Study was that progress toward the adoption of specific elements of the New International Economic Order has been very slow and in some

respects non-existent; and that the continued deferral of the proposed global negotiations on international economic cooperation for development can only have an adverse impact on the prospects for the full realization of human rights, particularly in developing countries.

One of the most important recommendations which emerged from the Study concerned the impact on human rights of the policies and practices of the major international financial institutions, most notably the World Bank and the International Monetary Fund in which developing countries do not have the right to equal participation. The Study emphasized the need to ensure the continuing, and indeed increased, availability of financial resources to facilitate the development efforts of all the developing countries and particularly the least developed. At the same time, it made it clear that the assistance provided must be of such a nature that its impact on the enjoyment of human rights is positive.

33. Seminar on the Relations that exist between Human Rights, Peace and Development, New York (1981) ST/HR/SER.A/10

The Seminar reaffirmed the interrelationship and interdependence between human rights, peace and development and that the fostering of one promotes the enhancement of the others. It insists that "the absence of peace, or the achievement of development by a people, can never exempt a State from its obligation to ensure respect for the human rights of its nationals and of the persons residing in its territory" (para.219 (1)). During the debate, the discussion leader expressed the view that "the development process required not only economic growth but should be directed fundamentally to the human person and the realization of his rights. It should be directed towards the satisfaction of the human rights of individuals everywhere and to increasing the quality of life of individuals universally" (para.21).

The Seminar also pointed to the reciprocity between development and respect for human rights. In its conclusions it stated that "respect for human rights is necessary for the development of the human personality", and reiterated "the indivisibility and interrelatedness of all human rights, including civil and political, as well as economic, social and cultural rights" (para.219(2)). The development process is necessary for the full realization of the rights enumerated in the two Covenants. However, development, in turn depends on full respect for all these rights. The interdependence between human rights and development is explicitly recognized in article 1(1) of the DRD, and article 2(1) provides that the human person is the central subject of development and should be at the same time the active participant and beneficiary of the right to development. Article 6(2) of the DRD reaffirms the indivisibility and interdependence between the rights

enumerated in the two Covenants, while article 9(1) provides that "all the aspects of the right to development set forth in the present Declaration are indivisible and interdependent and each of them should be considered in the context of the whole".

The Seminar emphasized the importance of the principles of non-discrimination and equity for the right to development. In its conclusions it stated, *inter alia*, that "development is a continuous process in society which should benefit all its members without discrimination" (para.219(4)). In the same paragraph it reaffirmed that "equality of opportunity for development is as much a prerogative of nations as of individuals within nations. The fundamental relevance of the principles of non-discrimination and equity are also expressed in the DRD, and are applied to both individuals and nations. In articles 2(3) and 8(1) it is referred to as fair distribution and equal opportunity and access. Article 8(1) also requires affirmative measures in favour women with their role in the development process.

The Seminar underlined the central importance of participation for the realization of human rights at the national level. In its conclusions the seminar noted the relevance of freedom of information to the right to peace and thus also to the right to development. It concluded that "people are entitled to information about the military policies and programmes of their governments and their implications" (para.219 (b)). The Seminar recommended that "special measures be undertaken to facilitate the participation of vulnerable or disadvantaged groups, including migrants migrant workers and indigenous peoples" (para. 219(8)(c)), thus also recognizing the right of groups to participation in the development process. The DRD explores the concept of participation as a means, and end, of development. Participation requires States to ensure, promote and encourage respect for all human rights without discrimination, and to democratize decision-making structures.

There was also wide support for the view that national and international justice are interrelated and that realization of the right to self-determination is a prerequisite for realization of human rights, including the right to development. It stressed that "one of the fundamental obstacles of the enjoyment of human rights for large parts of the peoples of the world, particularly in the developing countries, is the prevailing economic inequities among States and peoples". Moreover, "*apartheid*, racism and racial discrimination, colonialism, neo-colonialism, foreign domination and occupation, aggression and threats against national sovereignty and territorial integrity, and the denial of the right to self-determination of a people are flagrant breaches of human rights, deny the political and social conditions for development and constitute a threat to international peace" (p.55). It therefore emphasized the need

for structural changes at the international level, based on the right to self-determination, with a view to democratizing international relations. For realization of human rights, in particular the right to development, there is "need to establish a new international economic order, as well as the need to effect massive and additional transfer of resources to underdeveloped countries to be used for development". The Seminar thus recognized that the individual and collective aspects of the right to development may in fact be indivisible. The DRD reiterates the duty of solidarity of all States and the international community to undertake the necessary measures to democratize international structures, as a condition for the realization of the right to development.

34. Report of the Working Group of Governmental Experts on the Right to Development (1982) E/CN.4/1489

Paragraphs 18 and 27 of the report of the Working Group defined development as "a concept going beyond economic growth or development *per se*", and is not satisfied merely by raising material standards of living. Thus, in the second preambular paragraph of the DRD development is defined as "a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom".

Paragraph 43 of the report states that a national development strategy that rejects human rights "would be the very negation of development". Democracy and development are interrelated concepts. In accordance with this view, the DRD calls on States to formulate their own national development strategies in a manner that respects human rights. States have the obligation not only to take concrete steps to improve economic, social and cultural conditions, but must do so in a manner that is democratic in its formulation and equitable in its results (arts 1(1), 2(3) and 6).

Paragraph 28 of the report emphasizes the role of individuals as subjects of development. It states that "all individuals must be accorded by States the guarantees necessary to the exercise of civil and political rights (and)...equality of opportunity in their access to the means and resources necessary for (their) development." Article 2 of the DRD is explicit on the role of the individual as the "central subject" of the right to development. Individuals should not only enjoy respect for their human rights and fundamental freedoms generally, but in particular should enjoy "active, free and meaningful participation" in the decisions that affect them, and the right to share fairly and without adverse

discrimination in the benefits of socio-economic change (arts 2(1)(3),3(3),6(1)(8) and 8).

The Working Group in its report also referred to the collective aspects of the right to development. In paragraph 15 the Working Group points out that the individual and collective aspects of the right to development may in fact be indivisible, as in the case of the right to self-determination, because the right must ordinarily be exercised through economic, social and cultural institutions. Paragraph 17 indicates that the right to development might also be exercised by "village bodies and cooperatives and other mediating structures" at the local level. Article 1 of the DRD recognizes the right of both individuals and peoples to development. Article 2(2) recognizes the indivisibility of the individual and collective aspects of the right to development.

Paragraph 35 of the Working Group report gives a broader meaning to the right to participate than that provided in either article 25 of the International Covenant on Civil and Political Rights ("take part in the conduct of public affairs, directly or through freely chosen representatives") or article 21 of the Universal Declaration of Human Rights ("take part in the government of his country, directly or through freely chosen representatives"). According to the Working Group participation extends not only to government, but to economic, social and cultural affairs as well. Articles 1(1),2(3) and 8 of the DRD provides for the participation of both individuals and peoples in all spheres of development - economic, social, cultural and political - that affect them. Paragraph 42 states that unless "all segments" of the national population are included in the process on equal terms, socio-economic change will simply result in new inequalities and further violations of human rights.

Paragraph 27 of the report emphasizes the important link between the right to development and international solidarity. It states that, in the view of several experts, the right to development "is a human right which creates specific obligations and, in particular, entails a duty for all States in the international community to practise solidarity with each other". This duty of solidarity is explored in various articles of the DRD.

35. Report of the Working Group of Governmental Experts on the Right to Development E/CN.4/1985/11

With regard to participation the Working Group in paragraph 20 of its report stated that within the group "the general view, was that the right to development has both an individual and a collective dimension". The Working Group had before it a proposal from the non-aligned countries with a more forceful

definition of the right to participation. It not only proposed that popular participation should be recognized as a right but that it relates to both development and human rights. Article 10, paragraph 1 of the non-aligned proposal (annex 11 of the Working Group report) states that "States should take appropriate action to provide a comprehensive framework for popular participation in development and for the full exercise of the right to popular participation in its various forms which is an important factor of development and of the full realization of civil and political rights as well as economic, social and cultural rights". The DRD, in its article 8(2) provides only that States "encourage" popular participation.

The non-aligned proposal was also more explicit about State responsibility with regard to the role of groups and minorities in the realization of the right to development. It stated that "particular attention should be paid to the interests, needs and aspirations of discriminated and disadvantaged groups" (art.9(2)). Article 8(1) of the DRD refers only to the role of women in the development process.

A comparison of the non-aligned proposal on the new international economic order and a joint proposal submitted by the Netherlands and France (annex 111 of the Working Group report) on the subject are of interest for the manner in which article 3(3) of the DRD has been formulated. Article 8 of the non-aligned proposal stated that "it is necessary to take as a matter of priority adequate measures towards the establishment of a new international economic order", whereas, the Dutch/French proposal makes no specific reference to the new international economic order. Article 10 of this proposal refers only to "international instruments which reflect a consensus among States with different economic and social and political systems". Moreover, it states that any international measures taken should be based on consensus among States. Article 3(3) of the DRD, thus, reflects a compromise between these two positions. It is formulated in non-binding terms and provides that "States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order".

The non-aligned proposal contained a more robust clause about State responsibility for development. Its article 3(1) provided that "each State has the primary responsibility to ensure the full realization of the right to development within its territory". The DRD refers only to the creation of favourable conditions for development (art.3(1)). Moreover, the two proposals make fairly strong statements with regard to national governments having primary responsibility for development. The Dutch/French proposal states that national governments have primary responsibility to see that development takes place. It does not refer to international responsibility. The non-aligned proposal refers to

international responsibility but establishes a hierarchy by providing that it is each State that has primary responsibility. Article 3(1) of the DRD gives equal emphasis to domestic and international responsibility by providing that States have primary responsibility for the creation of national and international conditions favourable to the realization of the right to development. It, thus, does away with the hierarchy explicitly or implicitly recognized in the non-aligned and Dutch/French proposals.

The non-aligned proposal was also concrete with regard to implementation of the Declaration within international organizations and agencies. Article 13 states that "in the formulation of strategies and programmes designed to promote development, international organizations and agencies should take this Declaration into account". The DRD refers to international cooperation in ensuring and promoting development (articles 3 and 4). Although no specific mention is made of international organizations and agencies this idea is incorporated implicitly in its article 4(1) which provides that "States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.

36. Study of the Secretary-General on Popular Participation E/CN.4/1985/10

The study uses the term "participation" in a much broader sense than in either article 25 of the International Covenant on Civil and Political Rights or article 21 of the Universal Declaration of Human Rights. In paragraph 25(e) and (f)(i) and (ii) it concludes that this term "relates to all aspects of social, political, economic and cultural affairs affecting individuals, and includes the whole process of "decision-making concerning development", as well as "evaluation" and the sharing of benefits. Moreover, participation should take place with full respect for human rights, without any discrimination and giving special attention to groups which have so far been kept apart from genuine participation (25(d)). The study also points to the interrelationship between participation and human rights, including the right to self-determination. Paragraph 25(b) states that popular participation is both an essential means of promoting development and ensuring the full exercise of human rights, and an end in itself. Paragraph 61 is more explicit: "...the relationship between popular participation and human rights is more often than not reciprocal: respect for certain rights is indispensable if genuine participation is to develop; and reciprocally, the more participation is organized, the more the awareness of fundamental rights is accentuated and the stronger the demand for institutional safeguards designed to protect them". It emphasizes the importance of the continued

association of people in the exercise of the right to self-determination even after gaining political independence (para.70). Civil and political rights such as freedom of expression and information, and freedom of assembly and association are closely related to popular participation. "The very motivation to participate in public affairs can develop only through exposure to seminal information and ideas concerning the dignity of the human person within his community and his fundamental human rights" (para.74). Moreover, "participatory aspirations express themselves, at first, in assemblies, large or small, which lead normally to more permanent groupings and associations" (para. 82). The same is true for economic, social and cultural rights and participation. The exercise of rights such as the right to employment and work, social security, housing, environmental protection, health, culture are ordinarily exercised through institutions which ensure participation of various social and economic sectors, other groups, and indigenous peoples. Effective participation thus often takes place through collective institutions, and individual rights are exercised through the realization of collective rights such as the right to self-determination, right to form and join trade unions, right to assembly and association.

In the DRD articles 1(1),2(3) and 8 provide for participation in economic, social, cultural and political aspects of development, in the fair distribution of their benefits and in the full realization of all human rights. Article 1(2) clearly expresses the close relationship between the human right to development and self-determination. Article 2(2) refers to the reciprocity between individual rights and collective rights of the community.

CONCLUSIONS

The right to development as a human right approaches development in broad and comprehensive terms, as a complex process which, through multiple interaction in economic, social, cultural and political spheres generates continuous progress in terms of social justice, equality, well-being and respect for the fundamental dignity of all individuals, groups and peoples, based on their effective participation in all aspects of the development process.

Development and human rights are fundamentally interrelated concepts. Absence of respect for either civil and political rights or economic, social and cultural rights, or both sets of rights, whatever the cause, is an obstacle to development. On the other side, any development activity that violates human rights is the antithesis of development. Therefore, human rights is not only a fundamental aim of the development process, but a condition for development.

Participation is an essential factor in development and in the enjoyment of human rights. Participation can be understood as the right of everyone to participate, individually and collectively, in all aspects of social, political, economic and cultural affairs, which includes the whole process of decision-making concerning development, its implementation and evaluation, and to share fairly in the benefits of national development as a whole. Participation is both a means of promoting development and ensuring the full realization of human rights, as well as an end in itself. Respect for all human rights is indispensable for genuine participation, and reciprocally, participation will promote the integration of human rights into the development process.

Peoples' right to self-determination, like individuals' right to participation, must ordinarily be exercised through collective means; that is, through institutions, including States as well as non-governmental organizations. To be effective, these institutions must be democratic, and be able to function in an environment of equality of status and opportunity. In this way, the principles of democratic equity and of non-discrimination are applicable to international relations, relationships among groups within a State and the right of individuals to participate freely in State as well as non-State institutions.

The right to self-determination of peoples is exercised through their free choice of their own institutions, usually in the form of a single nation State. While self-determination is generally thought of as a single, indivisible and inalienable right of peoples, it has many aspects. It is

both individual and collective; it involves both the establishment of States and the operation of States once they have been established; and it necessarily entails freedom to choose economic and social as well as political institutions for its exercise. If any of these elements is missing the right to self-determination has not been realized, in legal or practical terms. The mere formation of a State does not, in itself, fully realize this right, unless the State genuinely enjoys continuing freedom of choice, within the bounds of international law. Over the past 30 years, there has been growing appreciation, within the United Nations system, of the critical role of equality in international economic relations for ensuring such continuing freedom of choice.

States' ability to realize human rights through a democratic, participatory international environment depends to a great extent on their enjoyment of genuine equality in international relations. Discrimination among States and peoples, at the level of international relations, has the same adverse effect as discrimination among individuals and groups within States: it perpetuates inequalities of wealth and power, and frustrates any efforts to address inequalities through the process of development. Although discrimination among States is, in strict legal terms, an issue of self-determination, friendly relations, and solidarity, rather than one of human rights, discrimination at the national and the international levels are inextricably linked by their effects on individual human beings.

Promoting development and the realization of respect for human rights is a shared concern and responsibility of individuals and groups within societies, States and the international community. The real basis of the right to development finds its justification in the obligation to demonstrate solidarity, which is linked to articles 1 and 28 of the Universal Declaration of Human Rights. Article 1 states, "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood", and article 28, that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."

Within the United Nations, the right to development is an extension of the decolonization debate and is related to the need for a new international economic order and economic cooperation among States. By focusing on the interaction between human rights and development issues, the Declaration on the Right to Development brings together two fundamental areas of United Nations activities which have developed on parallel lines. The implementation of the Declaration would imply that human rights and development be treated as a single interrelated system, rather than as separate domains of multilateral action.

Coordination of policies and actions taken by the United Nations organs and specialized agencies is required for the mutual strengthening of its activities in both human rights and development fields. The extent to which the achievement of the development objectives of the United Nations are interrelated with respect for human rights serves to underline the importance of development as the most effective level of intervention in the realization of all human rights. It also emphasizes the central importance of incorporating respect for all human rights in the objectives of the new international development strategy. Human rights objectives and monitoring, with the emphasis on empowerment of groups affected, ought to be an integral part of all development-related activities. Coordination should also aim at developing indicators for assessing compliance with the Declaration, the elaboration of international standards relating to the right to development, and the further development of the role of United Nations bodies dealing with social and economic questions in the framework of the realization of the right to development.

FOOTNOTES

1. "The Right to Self-Determination", study prepared by Aureliu Cristescu, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/404/Rev.1.
2. ACC Task Force on Long-Term Development Objectives, E/1989/80 ((*"development for people, by people"*)).
3. In The Legal Consequences for States of the Continued Presence of South Africa in Namibia, ICJ Reports 1971, the World Court held that articles 55 and 56 create binding legal obligations.
4. The recognition of the individual as subject of international law has been supported in a recent study on "Status of individual and contemporary international law" by Erica-Irene Daes, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1989/40).
5. The principles contained in this Declaration were reaffirmed in the final Convention on the Rights of the Child of November 1989.