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THE RIGHT TO DEVELOPMENT

Report of the Independent Expert on the Right to Development,
Dr. Arjun Sengupta, pursuant to General Assembly resolution 54/175 and Commission on
Human Rights resolution E/CN.4/RES/2000/5

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INTRODUCTION

1. In resolution 1998/72, the Commission on Human Rights decided to establish the mandate of the Independent Expert on the Right to Development as part of the follow-up mechanism to the Declaration on the Right to Development. The first study on the current state of progress in the implementation of the right to development was submitted by the Independent Expert on the Right to Development to the Open-Ended Working Group on the Right to Development in July 1999¹. The report was expected to be discussed at the Working Group sessions in September, and in December 1999, however, the Working Group was not able to meet in 1999 and is scheduled to meet only on 18 September, 2000. A precious year of time has been lost by the Working Group to complete the task that has been assigned to it by the Commission on Human Rights. The Independent Expert has been awaiting instructions and suggestions about further development of his work from the Working Group, as his first report submitted in July 1999 still remains on the table for discussion.

2. On 17 December 1999, the General Assembly adopted Resolution 54/175 on the Right to Development which called upon the Independent Expert to submit comprehensive reports to the General Assembly at its fifty-fifth session on, inter alia, the effects of poverty, structural adjustment, globalization, financial and trade liberalization and deregulation, on the prospects of the enjoyment of the right to development in developing countries. The areas to be reported on by the Independent Expert are very broad. The intention was clearly not to have them all included in one comprehensive report, but to consider them in a number of reports while leaving it to the Independent Expert to choose the sequence of subjects relevant to the enjoyment of the right to development.

3. In compliance with the General Assembly Resolution 54/175, the Independent Expert intends to submit a series of reports covering the different subjects specified in the resolution so that they may be discussed by the General Assembly in the coming sessions. This second report focuses on issues related to poverty; how they affect the prospects of enjoying the right to development, and how the removal of poverty can contribute to the realization of this right. The first report to the Commission on Human Rights on the right to development spelt out the basic characteristics of a process for realizing the right to development and a program for implementing the right in a step-by-step manner.² Removal of poverty is an essential element of that program, and a discussion of the issues relevant to decreasing poverty would bring out clearly the nature and characteristics of the approach to realizing the right to development as a human right. This second report also tries to outline the current state of implementation of the right and lay down guidelines for implementing the right to development step by step, along the lines suggested in the first report for realizing the right to food, the right to primary education and the right to primary health.

* The Independent Expert is grateful to Ms. Julia Haussermann of Rights and Humanity, UK, and to Mr. Sridhar Venkatapuram at the Harvard School of Public Health for their help and comments on this paper.

¹ Economic and Social Council, E/CN.4/1999/WG.18/2 dated 27 July 1999.

² Ibid.

I THE CONTENT OF THE RIGHT TO DEVELOPMENT; WHAT IS TO BE IMPLEMENTED

4. In the 1999 report, the content of the right to development was analyzed from the text of the Declaration on the Right to Development (paras 36 to 46). Article 1 of the Declaration states, "The Right to Development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized." The Article spells out three principles. First, there is an inalienable human right that is called the Right to Development. Second, there is a *particular* process of "economic, social, cultural and political development," in which "all human rights and fundamental freedoms can be fully realized." Third, the Right to Development is a human right by virtue of which "every human person and all peoples" are entitled to "participate in, contribute to and enjoy" that 'particular' process of development. The first principle affirms the right to development as being an inalienable human right, and as such, the right cannot be taken or bargained away. The second principle defines a process of development in terms of the realization of "human rights" which are enumerated in the Universal Declaration of Human Rights and other human rights documents adopted by the United Nations. The third element defines the Right to Development in terms of the entitlements to that process of development.

5. Subsequent Articles of the Declaration elaborate on these principles as has been discussed in the 1999 report. Instead of repeating the discussions here, we may focus on a few Articles to highlight their content. The first principle which asserts the Right to Development as a human right has by now gained universal acceptance, through the Vienna Declaration of Human Rights and Program of Action in 1993. The Vienna Declaration reaffirmed "The Right to Development, as a universal and inalienable right and an integral part of fundamental human rights" and also that, "the universal nature of these human rights and freedoms is beyond question." This means that all governments, especially those who were part of the Vienna consensus, have undertaken to respect the Right to Development as a human right in all their dealings and transactions.

6. To have a right means to have a claim to something of value on other people, institutions, the state, or the international community, who in turn have the obligation of providing or helping to provide that something of value. The Nobel-Laureate Amartya Sen has described the prevalent view about the essential characteristics of rights as, "Rights are entitlements that require correlated duties. If person A has a right to some X, then there has to be some agency, say B, that has a duty to provide A with X."³ So, recognizing a right would necessitate identifying the duty holder who has the obligation of fulfilling or enabling the fulfillment of the right. Any attempt to justify the use of rights must be preceded by first specifying the nature of the valuable elements that are considered as entitlements or rights and then by specifying the agents who have the corresponding duties to bring about the fulfillment of those rights.

7. In the early history of the rights movement this binary matching of rights with duties was understood too inflexibly. Rights would be acceptable only if they are realizable and that requires matching rights-claims with corresponding duties having identifiable methods of carrying out the obligations by the duty holder. Sen describes this matching in terms of the Kantian concept of "perfect obligation." According to those espousing rights

³ Sen, Amartya. *Development as Freedom*: Oxford University Press, 1999 (pp. 227-231).

as "perfect obligations," it may be very nice and high sentiment to say that everyone has a right to food, but it would not "mean" very much unless agent-specific duties and methods of fulfilling the obligation of the duty holders can be identified.

8. Over time this rigid and inflexible view of rights has given way to a broader understanding of the rights-duty relationship in terms of what Sen describes as the Kantian view of "imperfect obligations." Instead of perfectly linking rights to exact duties of identified agents, as Sen puts it, "the claims are addressed generally to anyone who can help," and the rights become "norms" of behavior or action of the agents such as other individuals, the State or the international community who can contribute to the fulfillment of these rights. Nevertheless, in order for a claim to be recognized as a right, the feasibility of realizing the right still has to be established. A non-realizable claim, however laudable it may be, can possibly be a societal goal but not a right, or a "valid" right as the philosopher Feinberg would put it. Even in a world of imperfect obligations feasibility would still have to be established at least in principle—how different duty-holders, if they operated in a coordinated manner according to a properly designed program of action can realize that right.

9. But feasibility in principle does not automatically lead to actual realization. Realization would depend on the agreement of all the duty-holders to work together according to a program and some binding procedures to make that agreement honored. Legislation that converts a "valid" right into a "legal" right is one such procedure, but it need not be the only one. There are many other ways of making an agreement among different duty-holders binding. This is particularly true if the duty-holders are different state-parties and the imperfect obligations cannot be reduced to legal obligations. Even if a right cannot be legislated, it can still be realized if an agreed procedure for its realization can be established. In other words, such an agreed procedure, which can be legally, morally or by social convention binding on all the parties, would be necessary to realize a valid right, that is, a right which is feasible to realize through interaction between the holders of the right and of the obligations.

10. Recognizing a right as a human right raises that status of the right to one with universal applicability and articulates a norm of action for the people, the institution or the State and international community on whom that claim is made. It confers on the implementation of that right a first-priority claim to national and international resources and capacities and furthermore, obliges the nation state and the international community, as well as other agencies of society including individuals, to implement that right. The Vienna Declaration states categorically, "Human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of governments." Reaffirming the commitment contained in Article 56 of the Charter of the United Nations to take joint and separate action by all the states, the Vienna Declaration espouses specifically that, "States should cooperate with each other in ensuring development and eliminating obstacles to development. The international community should promote effective international cooperation for the realization of the Right to Development and the elimination of obstacles to development."

11. The program outlined by the Independent Expert for implementing the Right to Development is built on this call for international cooperation in the Vienna Declaration, which in turn had accepted virtually all the prescriptions of the 1986 Declaration on the Right to Development. And in the 1986 Declaration, the duty of the international community to cooperate

was built upon Articles 56 and 57 of the Charter of the United Nations that has the legal status of an international treaty. The 1986 Declaration defines the Right to Development as a human right, as spelt out in its Article 1, and then specifies the corresponding duties and obligations quite clearly for the different agents, as discussed in the 1999 report of 1999 (para 40-43) of the Independent Expert. For example, "according to Article 2, paragraph 2, "all human beings [persons] have a responsibility for development, individually and collectively." They must take appropriate actions, maintaining "full respect for their human rights and fundamental freedoms as well as their duties to the community." Human persons have to function both individually and as members of collectives or communities and have duties to communities that are necessary to be carried out in promoting the Right to Development.'

12. States, according to Article 3, have "the primary responsibility for the creation of national and international conditions favorable to the realization of the Right to Development." The responsibility of States is complementary to that of individuals' responsibility and is basically for the creation of conditions for realizing the right to development, and not necessarily for actually realizing development. The actions of States needed for creating such conditions are elaborated in the different Articles in terms of both national and international operations. At the national level, Article 2, paragraph 3, points out that "States have the right and the duty to formulate appropriate national development policies," and Article 8 says that "States should undertake...all necessary measures for the realization of the Right to Development," and again, "should encourage popular participation in all spheres." In addition, States are required, by Article 6, paragraph 3, to take steps "to eliminate obstacles to development resulting from failure to observe civil and political rights as well as economic, social and cultural rights," because the implementation, promotion and protection of these rights would be essential for realizing the right to development as "all human rights and fundamental freedoms are indivisible and interdependent." (Article 6, para 2).

13. With respect to the obligation of States operating at the international level, the Declaration is forthright in emphasizing the crucial importance of international cooperation. According to Article 3, paragraph 3, "States have the duty 'to cooperate with each other in ensuring development and eliminating obstacles to development...and fulfill their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest'..." This is reiterated in Article 6, which states that "all States should cooperate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms." Article 7 in particular talks about all States promoting international peace and security and complete disarmament, ensuring that resources released thereby are used for comprehensive development, in particular of developing countries."

14. Most importantly, Article 4 declares quite categorically that States have the duty, individually and collectively, to formulate international development policies to facilitate the realization of the Right to Development. It recognizes that sustained action is required to promote rapid development of developing countries, and then declares, "as a complement to the efforts of developing countries, effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development." The implication of this clause becomes clearer when read in conjunction with Article 2, paragraph 1, which says that the states not only have the duty to formulate appropriate national development policies but also the right to do so, and

other actors of the international community have the duty to facilitate that process. Clearly, the national states on their own may not be able to formulate and carry out that process in an increasingly globalized and inter-dependent world without the cooperation of the other states and international agencies.

II. THE RIGHT TO DEVELOPMENT AS THE RIGHT TO A PROCESS

15. The Declaration also specifies the nature of the right that is claimed as a human right as stated in Article 1 as a particular process of development. There may be many different ways a country can develop, a sharp increase in GDP, or a rapid industrialization or an export-led growth, which may result in growing inequalities, regional or international disparity fluctuating employment with little social security together with concentration of wealth and economic power, without a commensurate reduction in poverty or improvement in social indicators of education, health, gender development or environmental protection. More importantly, it is possible for a country to grow in conventional terms with no improvement in the fulfillment of civil and political rights or of equity and social justice. These processes of development would not be regarded as a part of the process of development protected by the 1986 Declaration, as objects of claim as human right. It is only that process of development, "in which all human rights and fundamental freedoms can be fully realized" that can be the entitlement of every human person as universal human right.

16. The process of development, "in which all human rights and fundamental freedoms can be fully realized," has been elaborated in several Articles of the Declaration as objectives of development policies or measures to realize the right to development. For example, according to Article 2, paragraph 3, such a development process would be "the constant improvement of the well-being of the entire population and of all individuals, on the basis of their actions, free and meaningful participation in development and the fair distribution of the benefits resulting there from." Article 8 states more specifically that realizing the right to development would ensure "equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income," as well as "appropriate economic and social reforms" and "eradicating all social injustices" as well as "that women should have an active role in the development process,"

17. The 1999 Report spelt out in detail the nature of the process of development that is claimed as a human right. Since it is a process "in which all human rights and fundamental freedoms" are realized, it is integrally connected with the fulfillment of civil and political rights and the freedom to participate in both the decision making processes and the enjoyment of the fruits of development in all spheres, which cannot be realized without the fulfillment of the civil and political rights. Furthermore, the concept of such a process of development is rooted in the realization of the principles of equity and social justice. The entire human rights movement is founded on the equal treatment of every individual human being, equality of opportunity and the demand for justice. The movement for formulating the right to development was also motivated initially to bring about a more egalitarian international economic order. The North-South divide of the 1970s and the 1980s has probably lost much of its relevance today requiring a substantial rethinking about the New International Economic Order. Nevertheless, the aspiration to realizing equity and social justice remains as a fundamental motivation of all human rights claims, and cannot be separated from any program to realize the Right to Development.

18. This should make it clear that realization of the Right to Development goes much beyond improving *human development*. Indeed, the concept of human development is itself a substantial improvement of the earlier concept of development based on the expansion of wealth and material output or of the gross domestic product. Aggregate human development indicators, such as the one propagated in the form of a Human Development Index by UNDP, usually combines GDP with some simple measures of health and education such as life expectancy and literacy or years of schooling. They do not however, indicate how these indices are raised or how do they fulfill human rights. In the body of the UNDP Human Development Reports of previous years, some concerns with equity and justice and with basic freedoms are sometimes taken up, but rarely do these concerns form the foundation of arguments or programs for improving human development.

19. The human development approach and a human rights approach are basically complementary. A human rights approach to development can be very well seen as human development carried out in a manner fulfilling human rights. Such an approach is specified in the Declaration on the Right to Development and subsequent international resolutions as a participatory, accountable and transparent process with equity in decision making and sharing of the fruits or outcomes of the process as well as maintaining all the civil and political rights. The objectives of development are set up as claims or entitlements of rights-holders which duty-bearers are expected to protect and promote, respecting international human rights standards based on equity and justice. In our 1999 report, we spoke about rights which are enforceable entitlements and human rights as being derived from human dignity based on equity or the notion of equality of all human beings. Equity in this sense is closely associated with fairness or the principles of a just society; and a human rights approach to development must ensure that the realization of the rights improves equity and justice.

20. In our 1999 report we mentioned that "one of the benefits of using a human rights approach is that it focuses attention on those who lag behind others in enjoying these rights and it requires that positive actions be taken on their behalf. In the human rights literature, this is often dealt with in terms of favoring the poorest or the most vulnerable groups of the society. In theory, this would be the application of the Rawlsian Difference Principle that requires maximizing the advantage of the worse off, no matter how that affects the advantages of all others. Accordingly, we spoke about poverty reduction as the most important contribution that can be made to the improvement of equity and justice. Any increase of human development, carried out in accordance with a participatory, accountable, transparent, and non-discriminatory manner that improves equity and justice by reducing poverty will be consistent with the rights approach to development.

21. However, the rights approach to development is not the same thing as realizing the right to development. For example, while the reduction of poverty or improving the lots of the most vulnerable or the poorest section of the population will satisfy some index of justice, to realize the right to development, viewed as a right to a process, will require looking at the elements that contribute to the dynamics of sustained poverty reduction and human development. GDP as well as education and health, the two other basic variables in the human development indices, would also be the three most important variables for the sustained reduction of poverty and realization of the Right to Development, as a process of development. Indeed, depending upon the context, there may be several variables of rights interacting among themselves to determine the realization of the right.

22. The right to development as the right to a process of development is not just an umbrella right or the sum of a set of rights. It is the right to a process that expands the capabilities or freedom of individuals to improve their well being and to realize what they value. It is possible for individuals to realize several of the rights separately such as the right to food, or to education, or to housing. Indeed, it is also possible that these rights are separately realized following the human rights approach, that is, with transparency and accountability, in a participatory and non-discriminatory manner, and even with equity and justice. It could still be possible that the right to development is not realized as a process of development where the realization of all the rights are inter-related in accordance with a sustainable process. Similarly, a program of policies can be worked out based upon the inter-relationships between different rights which establishes a process that would *facilitate* the realization of those rights, without actually realizing those rights. The process must be distinguished from the outcomes of the process. The realization of the different rights, i.e. civil and political rights as well as the economic, social, and cultural rights, may be the specific outcomes of several policy programs. But the right to those outcomes is quite different from the right to the process that produces those outcomes.

23. A process implies an interdependence between different elements which can be understood in terms of time, as a related sequence between what happens today and what happens tomorrow and, interdependence can also be understood in terms of a particular point in time, as the interaction between cross-sections of elements that are related to each other where the value of a single element depends upon the value of other elements. In our 1999 report we described the right to development as a vector of different elements including the right to food, the right to health, the right to education, the right to housing, and other economic, social, and cultural rights as well as all the civil and political rights together with the rates of growth of representative resources such as per capita consumption, output and employment.

24. There are two basic characteristics of that vector. First, each of the elements or the rights will have to be realized according to the rights-based approach as we have spelt out above. This means that the right to development as a whole, will also have to be realized in a rights-based manner that is transparent, accountable, participatory and non-discriminatory, as well as equitable and just. Secondly, all these elements are interdependent in the sense that the level of realization of a right, say the right to health, depends on the levels of realization of other rights, such as to food or to housing, or to liberty and security of person or to freedom of expression that includes freedom of information. Similarly, the realization of all these rights in a sustainable manner over time depends upon the rates of growth in per capita consumption, output and employment.

These latter economic variables not only determine the extent of the provision of resources for realizing the different rights but also affect the manner, the phasing and the spatial and temporal pattern of their realization.

25. Looking at the right to development as a vector of rights and resources has another implication that is crucial to the process of realizing that right. An improvement in the realization of the right to development or an increase in the value of the vector will be unequivocal if all the elements of the vector improve or if at least one improves and no other element decreases. If that is not so, and if some elements improve and some deteriorate, or if some rights improve in realization and some others are violated, the net improvement in the right to development as a whole would depend upon the relative weights of the rights, depending upon the trade-offs between them. However, when the rights are all human rights, such trade-offs are not possible as all human rights are regarded as inviolable and none of them is considered superior or more basic than another. Therefore, if any one right is violated, while all others improve in realization, it will not be possible to claim any improvement in the right to development. However, among the resources, there can be some trade-off between their components, such as per-capita consumption, output and employment depending upon the nature of their relationship in the economy. But their combined effect, yielding a value of resources that determines the realization of the rights, must keep increasing at a sustainable rate to permit a continued improvement in the realization of the right to development. In short, the requirement for improving the realization of the right to development will be that at least some of the rights can be increasingly realized while none other deteriorates in realization or is violated, whether they be civil or political or any of the economic, social and cultural rights, and there be a sustained growth of overall resources.

III. REALIZING THE RIGHT TO DEVELOPMENT

26. In our 1999 report a program for realizing the right to development was suggested and the Working Group may like to consider it in detail. There may be other programs which the Group may also take up for examination. But in all these exercises it would be necessary to appreciate the basic characteristics of any program for realizing the right to development as a right to a participatory process of development. They can be summarized as follows.

- a) The implementation of the right to development should be seen as an overall plan or program of development where some or most of the rights are realized, while no other rights are violated. In addition, there should be an overall sustained growth of the economy with increased provision of resources for the realization of those rights and with improved structure of production and distribution facilitating that realization. The last point about improving the structure of production and distribution may be important to ensure improved equity in a growing economy.

- b) Implementation of any of the rights cannot be an isolated exercise, but should be part of a plan or program for development, and implementation of the other rights designed on the basis of interdependencies with inter-temporal, over time and inter-sectoral, over cross-section consistency.
- c) The exercise of implementing the overall plan as well as realizing individual rights must be carried out according to the rights approach to development, that is, with transparency, accountability and in a non-discriminatory and participatory manner and with equity and justice. In practice, this means with schemes formulated and implemented at the grass-roots level with the beneficiaries participating in the decision making and implementation as well as sharing equitably in the benefits. In short, this implies planning that empowers the beneficiaries.
- d) The interdependencies between the different elements of the right to development depend on the economic, political, social and legal institutions and the rule and procedures of their operation; and a process of development associated with human development and expanding opportunity with equity and justice would often require a fundamental change in these institutions. The realization of the right to development would therefore imply a change in the institutional framework, and that would very often spill over from national to international institutions.
- e) While the rights-holders of the right to development are peoples and individuals in developing countries as specified in the Declaration of the Right to Development; the duty-bearers are primarily the States and the international community, and of course, the other members of national and international civil society. It would therefore be necessary to specify the policies in pursuance of these obligations which state parties and the international community, consisting of the international agencies, donor countries, and other governments as well as multinational corporations, must carry out to implement those rights.

27. The primary responsibility for implementing the right to development will of course belong to national states as clearly indicated in the Declaration. The beneficiaries would be the individuals. The international community has the duty to cooperate to enable the state parties to fulfill these obligations. But when realizing the right to development is seen as not realizing a few rights in isolation, but implementing all or most rights in a planned manner in tandem with an appropriately high and sustainable growth of the economy and change in its structure, the importance of international cooperation becomes even more evident. It may be possible for a state party to implement one or two rights, such as to education or primary health considered in isolation by making some changes in the legal framework and reallocating the resources available within the country. But implementing a plan of development with fundamental institutional changes may not be possible for individual nation states without substantial help or cooperation of the international community.

28. Most developing countries are starved of resources and lack of adequate means to realize a reasonably high growth rate of the economy or standard of living, not to speak of realizing the rights that would require a change in

the whole structure of the economy. They would need the assistance and cooperation of the international community, not just for transfer of resources to supplement their own domestic resources, but also to implement the changes in the institutions and rules of operation of the international economy needed to allow the less developed countries to participate and enjoy the benefits of international transactions of trade, financial flows, technology transfers and communication. With increased globalization most of the state parties have lost their flexibility of following independent policies. Changes in the international economy and the way the international markets and institutional operations can wipe out the benefits of realization of any right in a very short time. And it may not be possible to conceive of any plan or program to realize the right to development by a state without specifically accounting for and depending on international cooperation.

29. The movement for the right to development was initiated by the developing countries as a claim of the developing countries on the international community. It was associated with the movement for establishing a New International Economic Order where the developing countries would have an equitable share in the decision making process of the international economic system and in the fruits of all international economic transactions. The world was seen as largely divided between the North and the South; the industrialized versus the developing countries with the Soviet-bloc countries generally supporting the South from the side-lines. The right to development, besides being a claim on equitable treatment in all international transactions of the developing countries, became concerned mostly with the transfer of resources and potential treatment of these countries in international trade and finance.

30. Much of the language used by the developing countries at that time has lost its relevance today. The world is no longer that sharply divided between the North and the South, the cold-war has come to an end and the Soviet-bloc has disintegrated. But despite the wide differences in the interests of different developing countries, arising from their differing levels of development, the essential nature of their dependence on international cooperation has not changed, except for a very few newly industrialized economies. Most of the developing countries are still very short of resources. They require substantial transfer of resources from the industrial countries to supplement their domestic resources. Many of them are caught in the debt-trap from which they cannot escape without international cooperation. A large number of these countries still require special institutional mechanisms to stabilize their commodity prices or their fluctuating export earnings. A number of developing countries would still require preferential treatment for the access of their products in the industrial country markets. A large part of their exports even today, face tariffs and non-tariff barriers in the protected industrialized markets. Furthermore, the structure of the international financial system still discourages private capital flows to most low-income countries, and any exogenous shock can generate panic in the international capital market that causes capital to fly out from most developing countries. Developing countries would still require international cooperation to cope with any of these problems.

31. It is of course true that such international cooperation cannot be considered only in terms of transfer of resources. Indeed, for many countries, and for realizing many of the objectives related to the right to development, making more effective use of the existing resources may be more important than additional flows of resources. For many projects which are implemented with a rights based approach to development, the resulting transparency, accountability and empowerment may be cost-effective in terms of public expenditures, and so may substantially reduce the need for a large injection of foreign aid. But all these do not mean there is no need to increase resource transfer from industrial countries to developing countries. The resource gap is still very large for most developing countries, especially in poorer countries which are bypassed by private capital. There may now be a case for more effective use of aid, including its use for leveraging increased private capital flows to many low-income countries. But there is no case for reducing those flows.

32. However, in an increasingly globalized economy international cooperation will have to take many different forms in order to tackle the problems mentioned above, such as solving the debt problem, decreasing commodity prices and export-earnings instability, the protectionism in industrial countries and the inadequacies of the international financial system. In addition to those, there are the immense gaps in technology and serious threats to the environment. If these problems are not taken care of, the state governments of developing countries would not have the maneuverability of implementing any effective plan or program of policies which would enable them to realize the right to development.

33. It must be noted however, that the overall responsibility of the state parties of the developing countries in implementing the right to development, following the human rights approach, is not diminished even if international cooperation is not forthcoming to the desirable extent. The state's responsibility remains absolute in the human rights approach. They must enact legislation, adopt appropriate measures, engage in public actions, formulate schemes that empower the beneficiaries at the grass-roots level, allocate investment and restructure production to promote equity and sustainable growth with whatever resources they have in a given framework of international cooperation. If the level of that international cooperation improves, they would then be able to do the job more effectively. But states cannot wait for that increase and not do all that they can to implement the right to development, protect, promote and facilitate the enjoyment of all civil and political rights as well as the economic, social, and cultural rights.

34. The duty of the international community to cooperate in order to implement the right to development is also absolute, and it is imperative that a consensus is created around a framework for international cooperation that would enable the state parties with the help of civil society to realize the right to development for all the people of the developing countries. As the realization of the right to development is a process, it can be done step by step; creating a framework and taking up areas progressively in accordance with the availability of financial, technical and institutional resources.

35. In the 1999 Report, the Independent Expert submitted a proposal for creating a framework through an international compact of reciprocal responsibility between state parties and the international community. He then suggested realizing, to begin with, three rights, the right to food, right to primary education, and the right to primary health. These three rights were chosen because they were integral to the right to life and

because they were regarded as convenient to implement on account of the large amount of work that has already been done on them by several international institutions. It would be quite consistent with this approach if any other right is chosen by the country concerned provided it is implementing the right within the framework of an international compact and in a manner that is integrated with a development plan for realizing all the rights as elaborated above.

36. An alternative may be that instead of starting out with a general development plan, a state may concentrate on a program for the eradication of poverty. It is possible to argue that the overall development of an economy may be left to the market forces without too much policy intervention except for some incentives or processes for expanding infrastructural investments. The states may then be involved primarily in poverty eradication following the rights approach to development.

37. If it is possible to generate a greater consensus around international cooperation for poverty eradication, this approach may be quite convenient for realizing the right to development. Eradicating poverty is quite consistent with the rights approach as improving the well-being of the most vulnerable sections of the population meet with the criteria of equity and justice as we had earlier noted. According to that system of justice, if the lots of the poorest 30 to 40 percent of population are improved, it does not matter what happens to the other richer sections. In other words, we need not get into question whether a reliance on the market forces will be sufficient for the well being of other relatively richer sections. The only problem we should be concerned about is that an over-dependence on the market forces does not create the conditions for an economic and financial crisis that may suddenly worsen the nature of poverty or the number of the poor. There should be enough international cooperation such as creating a lender of last resort or contingency financing facilities with international institutions to take care of these problems. With such arrangements in place, all the consensus and good will that would be generated may all be centered around programs of poverty eradication.

38. The approach of the Independent Expert would still be relevant in the context of poverty eradication as a program of realizing the right to development. Poverty has at least two dimensions. The first is income-poverty which relates to what percentage of a country's population subsists below a minimum level of income or consumption. The second is related to the capability of the poor to come out of poverty in a sustainable manner by having increased access to facilities like health, education, housing and nutrition. In that context, pursuing policies to realize the right to food, the right to health and the right to education in the framework of international cooperation through an international compact would be wholly consistent with a program for the reduction of income-poverty. The formulation and implementation of all the policies in the program must be based on a human rights approach maintaining transparency, accountability, participation and non-discrimination with equity in decision-making and in sharing the benefits, or in short through the empowerment of the poor beneficiaries.

IV POVERTY ERADICATION AND IMPLEMENTING THE RIGHT TO DEVELOPMENT

39. During the 1990s, the proceedings at several international conferences as well as initiatives adopted by various international agencies and donor countries contributed towards developing a global consensus on integrating human rights with programs of development. There was the World Conference on Human Rights in Vienna in 1993 that recognized the right to development as a human right and called upon national states and the international community to fulfill their obligations to enable individuals and peoples of developing countries to enjoy that right to development. Then, there was the 1994 International Conference on Population and Development in Cairo that adopted major programs on population and development from a human rights perspective. These programs were advanced further at the 1995 World Conference on Women in Beijing where states reaffirmed their commitment to women's human rights, eliminating discrimination and ensuring equality of treatment within the wider agenda of development. At the 1995 World Summit for Social Development held in Copenhagen, Heads of States and governments committed themselves "to a vision for social development" based on "human dignity, human rights and equality." Five years later, at the Conference called Copenhagen plus5, or the World Summit for Social Development and Beyond, held in Geneva in 2000, the implementation of the 1995 program of action was reviewed and further actions and initiatives to implement the original Copenhagen commitments were adopted. Indeed, at Copenhagen the world leaders clearly spelt out their commitment to international cooperation to "promote all human rights, which are universal, indivisible, interdependent and interrelated, including the right to development, as an universal and inalienable right and an integral part of fundamental human rights and strives to ensure that they are respected, protected, and observed."

40. Following that, in 1996, the Development Assistance Committee of the OECD proposed a global development partnership in an effort to achieve some clearly specified goals such as the reduction by one-half of the proportion of people living in extreme poverty by 2015; universal primary education in all countries by 2012; a reduction by two-thirds in mortality rates for infants and children under age five, and a reduction by three-fourths in maternal mortality by 2015; demonstrated progress towards gender equity and the empowerment of women by eliminating gender disparity in primary and secondary education by 2005. Later in 1998, the ECOSOC, in its resolution 1998/44 reaffirmed the international target for poverty reduction. And in 2000, at the Copenhagen plus5 meeting in Geneva, after noting that in many countries the number of people living in poverty had actually increased since 1995, the target of halving the poorest by 2015 was reaffirmed.

41. Among the conventional measures of poverty, the most frequently used indicator is the so called head-count index to estimate the number of people living below a poverty line for each country. If that poverty line is taken as US\$1 a day (measured at 1985 purchasing power parity dollar) the World Bank estimated that there were more than 915.9 million people, excluding those living in China, who were living below the poverty line in 1990. That number went up to 985.7 million in 1998. The global number of the poor however, went down during this period because of the remarkable decline, almost 40 percent, of the number of people living below the poverty line in China. Even so, there are about 1.2 billion people today who still live in abject poverty.

42. Table 1 below provides estimates of percentages of people living below the poverty line by the regions of the world, over the ten years between 1987 to 1998.

TABLE 1. POPULATION LIVING ON LESS THAN \$1 PER DAY.

Regions	Population covered by at least one survey (percent)	HEADCOUNT INDEX (PERCENT) SELECTED YEARS, 1987-1998				
		1987	1990	1993	1996	1998 (est.)
East Asia and the Pacific (excluding China)	90.8	26.6	27.6	25.2	14.9	15.3
Eastern Europe and Central Asia	71.1	23.9	18.5	15.9	10	11.3
Latin America and the Caribbean	81.7	0.2	1.6	4	5.1	5.1
Middle East and North Africa	88	15.3	16.8	15.3	15.6	15.6
South Asia	52.5	4.3	2.4	1.9	1.8	1.9
Sub-Saharan Africa	97.9	44.9	44	42.4	42.3	40
Total (excluding China)	72.9	46.6	47.7	49.7	48.5	46.3
	88.1	28.3	29	28.1	24.5	24
	84.2	28.5	28.1	27.7	27	26.2

World Bank, World Development Report 1999.

Notes: The numbers are estimated from those countries in each regions for which at least one survey was available during the period 1985-98. The proportion of the population covered by such surveys is given in Column 1. Survey dates often do not coincide with the dates in the above table. To line up with the above dates, the survey estimates were adjusted using the closest available survey for each country and applying the consumption growth rate from national accounts. Using the assumption that the sample of countries covered by surveys is representative of the region as a whole, the numbers of poor are then estimated by region. This assumption is obviously less robust in the regions with the lowest survey coverage. The headcount index is the percentage of the population below the poverty line. Further details on data and methodology can be found in World Bank (forthcoming) and Chen and Ravallion (forthcoming) "Global Poverty Measures 1987-1998 and Projections for the Future". Washington D.C.: World Bank.

43. The table shows that the best performers in poverty reduction during the period are countries in East Asia and the Pacific, including China, as well as countries in the Middle East and North Africa. Much of this gain according to the World Bank's World Development Indicators 2000, was made by them before the financial crisis of 1997-98, and the data from the national surveys would suggest that there was a sharp increase in poverty in some of the major countries. Even in China, the rate of poverty reduction slowed down after 1996.

44. The next best performers are the countries in the Middle East and North Africa as these countries had gained from rising oil prices. However, if the poverty line were taken at \$2 per day, which may be regarded as being more reasonable for middle-income countries, the percentage of people in the Middle East and North Africa living below the poverty line in 1998 would be 22%. This is in sharp contrast to showing only 2% when the poverty line is drawn at 1\$ per day, which according to the World Bank should be taken as the line for extreme poverty.

45. South Asia, which has been the home of most of the world's poor, made very small progress in poverty reduction during this period; with poverty rates falling from 44.9 percent in 1987 to only 40% in 1998. This was despite the fact that South Asia grew at the average rate of 4.9 percent of GNP between 1965-98, which was higher than that of Latin American (3.5%), Middle East and North African (3.1%) and Sub-Saharan African (2.6%) countries, though lower than East Asia (7.5%).

46. In Latin America, despite all of the growth during the 1990s, the poverty ratio remained stuck around 15 to 16 percent. That ratio jumps to about 36 percent if the poverty line is taken at \$2 a day. A difficult case is that of Europe and Central Asia. In 1990, there were very few people there living in extreme poverty (less than \$1 a day). In 1998, however, more than 24 million or 5 percent of the population was living below the \$1 a day line, and there were as many as 33 million or 20 percent of the population living below the \$2 a day poverty line.

47. The worst case is that of Sub-Saharan Africa. In 1987, there were 217 million or 46.6 percent of the population living in extreme poverty of less than \$1 per day, as compared to 291 million or 46.3 percent of the population in 1998. There was a large inter-country variation of the poverty ratio, but only a handful of these countries have rates below 30 percent. Meanwhile, for a number of countries, the ratio fluctuated quite widely due to external shocks such as falling commodity prices, reduced world export demand or sharp exchange rate depreciation or competitors, in addition to wars, conflicts and natural disasters.

48. The head count index of poverty, by counting the number of people below the poverty line defines poverty in terms of per capita income or consumption. Using \$1 per day, in terms of purchasing power parity, as the poverty line identifying people living below that as living in extreme poverty, may help international comparisons. But for a country's domestic policy decisions what may be more relevant is the national poverty line, as it is the cost of a representative basket of consumption which may be regarded by some national criteria as the minimum that would be required for bare subsistence. There can be a very large difference between the poverty ratios estimated by these two methods. For example, in the case of China, the percentage of people in 1989-94 who were below the national poverty line was at 11 percent in contrast to those who were below the \$1 a day at 29.4 percent. The corresponding figures for India, 35 percent under the national poverty line in 1994, but as much as 52.5 percent under the \$1 a day in 1989-

94. For Indonesia, another populous country, the figure was 8 percent below the national poverty line and 14.5 percent below the \$1 a day line during the same period. (These numbers are taken from the Human Development Reports that give figures for comparable periods.)

49. From the perspective of a rights based approach to human development, the concept of poverty goes much beyond just income-poverty. It signifies an unacceptable level of deprivation of well-being that a civilized society considers incompatible with human dignity. It is a gross violation of human rights. The eradication of poverty should be the first priority of a policy for realizing the right to development.

50. Amartya Sen, in his Development as Freedom claims that "poverty must be seen as deprivation of basic capabilities rather than merely as low incomes, which is the standard criterion of poverty." He has been propagating this approach for almost the last two decades. Capabilities as we have seen earlier, are essentially related to human rights, giving individuals expanded choice or freedom to be and do things they value. Following this approach of broadening the dimensions of poverty, the World Development Report (1990) of the World Bank defined poverty in terms of low income as well as low education and health, and proposed a strategy for poverty reduction based on policies to raise the growth in incomes and increased investment in basic education and health care. But capabilities are not limited only to basic education and health care, although they are undoubtedly most important not just as values in themselves but also in raising the capacity of individuals to increase their incomes and well-being. In several studies that asked the poor people themselves in different countries about what they considered as basic characteristics of poverty, it turned out that "income matters, but so too do other aspects of well-being and the quality of life—health, security, self respect, justice, access to goods and services, family and social life."⁴

51. Lack of dignity, security, self-respect, and justice are all expressions of violations of human rights. A poverty reduction strategy must therefore, be based on the removal of these violations and improving the real incomes of the people and the other indices of the quality of life in a manner which is consistent with the human rights based approach, as has been spelt out earlier. In other words, an effective poverty reduction strategy will be an illustration of the strategy to implement the right to development.

52. Table 2 presents a profile of human poverty in terms of a number of social indicators as well as two indices of income poverty, one derived from a poverty line of \$1 a day, another from the national poverty lines. These indices of social indicators are not exhaustive, and there are several other variables that should be considered for determining any improvement in the quality of life. There should be at least a major assessment of indices of gender equity in terms of female economic activity, women's health, and education stratified by gender. A number of studies have by now clearly established the essential link between gender equity and the quality of life and development. To set a balance, Table 3 provides some information on gender and education but a proper appraisal of the issues concerned must take account of a number of other gender related variables. All this information, including those about other indices of the quality of life are available in the Human Development Report of 2000. For the purpose of the present report, Table 2 and Table 3 would clearly show that the status of poverty cannot be

⁴ Robert Chambers, "Poverty and Livelihoods, Whose reality counts." IDS discussion papers. 1995, Quoted in United Nations 1998, Poverty Reduction Strategies.. A Review. World Summit for Social Development, New York.

evaluated only by considering income-poverty, if poverty is fundamentally related to the quality of life or deprivation of capabilities.

TABLE 2. HUMAN POVERTY PROFILE (WEIGHTED AVERAGES (%) BY REGION)

	People not expected to survive to age 40 of total population (1995)	Adult illiteracy rate (%) 1995	Population without access to safe water (%) 1990-96	Population without access to health services (%) 1990-95	Population without access to sanitation (%) 1990-95	Underweight children under age five (%) 1990-97	Children not reaching grade 5 (thousands) 1996	Ratio of Real GDP per capita to Poorest 20%	Population below income poverty line (1985 PPP\$) 1989-94	Population below income poverty line (1985 PPP\$) 1989-94
East Asia	8.40	16.67	32.70	12.60	65.42	20.97	9.44	6.87	26.04	13.94
East Asia w/o China	11.48	12.47	9.99	14.03	41.09	33.49	14.43	6.51	14.11	22.40
South Asia	2.34	50.80	18.93	22.24	66.79	51.27	37.51	4.84	44.92	35.02*
Latin America	6.24	13.50	22.58	20.54	29.35	9.40	23.18	18.56	23.76	39.29
Middle East	11.47	40.28	16.04	11.37	22.92	15.03	7.94	5.89	4.54	25.94
Sub-Saharan Africa	30.48	43.60	46.68	46.54	56.79	30.13	30.30	12.40	35.04	13.48

NOTES: Source is the Human Development Report 1998. All figures are percent averages weighted by population of available country data. The Central and Eastern Europe region is excluded as HDR 1998 had only data for Turkey.

* Based only on India for 1987-97.

TABLE 3. GENDER AND EDUCATION

	Female adult literacy rate 1998 (% age 14 and above)	Female adult literacy 1998 (as % of male rate)	Female primary age group enrolmen t ratio 1997 (% of primary school age girls)	Female primary age group enrolmen t 1997 (as % of male ratio)	Female secondar y age group enrolmen t ratio 1997 (% of secondar y school age girls)	Female secondar y age group enrolmen t 1997 (as % of male ratio)
Arab states	47.3	66	82.1	91	56.8	85
East Asia	75.5	83	99.8	100	77.4	88
Latin America and the Caribbean	86.7	98	92.4	98	65.8	102
South Asia	42.3	64	72.1	86
Sub-Saharan Africa	51.6	76	51.8	85	35.8	...
OECD	99.7	100	87.8	98

Source: Human Development Report 2000, table 28, p.258.

53. For example, East Asia, with or without China has been the best performer on income-poverty, but a very high percentage of people there have no access to safe water or to sanitation and fairly high proportion of underweight children below the age of five, while its gender education profile is consistently very high. South Asia is worse than Sub-Saharan Africa on income-poverty on \$1 a day head count basis, but is much better in terms of percentage of people not expected to survive to age forty, access to safe water, access to health services and the index of income equality. But the people of Sub-Saharan Africa are better off in terms of adult literacy and female adult literacy.

54. In other words, for a program of eradication of poverty, one has to look at a number of indices together, and a right to development approach would imply considering improvement in each of the indices through schemes that have to be implemented following the rights approach and also as a part of a coordinated program of growth and development. The rights approach where the beneficiaries are empowered to participate in the decision making and executing the different schemes, transparently and accountably, and sharing the benefits equitably, is not just an end in itself helping to realize the human right to development. There are now many studies described in the World Development Reports based on inter-country and intra-country experiences that establish that such an approach also improves the outcomes of the schemes increasing the value of the different social indicators. The rights based approach would then also be instrumental to the improved realization of the right to development.

55. For any strategy to realize the right to development, improving the realization of the different individual rights has to be coordinated with each other in a development program including a sustainable growth of resources. Resources in the rights approach include not just GDP or output and employment, but also legal, technical, and institutional resources. An improvement in these resources improves the prospects of realization of all the other rights and increase in the value of the other indicators.

56. While there has not been any doubt about the positive effects of improvement in technical, institutional and legal resources, questions have been raised about the relationship between growth of GDP and the values of these indicators. But this has been mostly the result of a confusion between the necessary and the sufficient condition in the relationship between the increase in the value of these indicators and increase in GDP. For any sustained increase in the value of the indicators, it is necessary to have a higher growth of GDP. But having a higher growth of GDP is not sufficient to have a high value of the indicators.

57. There are several studies which clearly show that a reduction of income-poverty is almost always associated with growth (in income or consumption) and that a negative growth is accompanied by an increase in poverty.⁵ However, for any given rate of growth, different countries may have different values of income-poverty, depending upon how the results of growth are distributed, or what is the pattern of growth, whether the sectors producing labor intensive outputs, such as agriculture are growing more or whether regions which have a higher growth of population or labor force are growing faster. With regard to the non-income variables or other social indicators it is possible at a given moment to raise these values by reallocating the resources within a given level of income. But this cannot be sustainable even in the medium term, without a rise in the availability of resources, especially when a number of such indicators, each with its claim on resources, are expected to rise together in a coordinated manner in a program of realizing the right to development.

58. It is important to recognize the difference between implementing any one right separately and independently from others and implementing all or most rights together as part of a development plan or program and their implication for the use of resources. It may be possible to implement any one single right without spending much additional resources, just by using the current level of expenditure more efficiently through a better allocation of their expenditures. In most cases, all that would be required is that the state parties adjust their method of functioning and fulfill their obligations to the beneficiaries according to the rights approach. There will of course be the indirect effects of non-fulfilling the other rights, because as we have noted earlier, the level of enjoyment of any one right would depend upon the level of enjoyment of the other rights. But these effects would be ignored if the concern is with the implementation of one single right in isolation. But if implementing a single right is seen as a part of a plan for development, it will have to build on the interdependence between the rights or between the flows of goods and services that are

⁵See Ravallion and Chen. "What Can New Survey Data Tell Us about recent changes in distribution and poverty" World Bank Economic Review 11(2), 1997).

reflected in the social indicators associated with different rights. This would call for a substantial increase in net resources, often much beyond the available domestic resources.

59. In order to sustain a high and feasible level of growth that expands over time the supply of resources most developing countries would require, a domestic rate of investment higher than the rate of savings, which must be bridged with a supply of foreign savings or international transfer or resources. Their claim on international cooperation, to which they will be entitled by virtue of the international acceptance of the right to development will include, in addition, a change in the framework of international relations giving the developing countries an equitable share in the fruits of international transactions. The need for such cooperation will be much greater than a simple rights based approach for realizing the individual rights.

60. It appears that the international community consisting of the developed donor countries, the World Bank, the IMF, UNDP, and other regional financial institutions have also realized the need for changing their traditional methods of development cooperation and financing the developing countries and adopting more and more an approach based on partnership and empowerment of the recipients. While the percentage of foreign aid of the GNPs of major industrial countries declined in the 1990s, there is now an increased realization that private capital flows which took over a much larger share of international flows to developing countries were not adequate for meeting their development needs. Several surveys in the industrial countries showed that if the tax payers were convinced that foreign aid was used appropriately and effectively, they would not mind an increase in its amount. Accordingly, the donor community started reviewing their strategies of aid to make the recipients own their programs, and accept the need for policy reforms dictated by their own needs, and not by conditionalities imposed from outside. And the stance of their aid shifted towards poverty removal in its broad dimensions of increasing the capabilities and the empowerment of the poor. As it was noted in our 1999 Report, "the 1996 DAC study, Shaping the 21st Century: The Contribution of Development Cooperation, the 1997 Swedish International Development Authority study, Development Cooperation in the 21st Century, the 1997 White Paper by United Kingdom Secretary for International Development, Eliminating World Poverty: A Challenge for the 21st Century, and the World Bank Policy Research Paper of 1998, Assessing Aid, all spelt out the essential ingredients on which this approach of a "development compact" proposed by the Independent Expert can be built.

61. As illustrations of such changes in the approach to international cooperation, the essential features of three initiatives may be mentioned here. The World Bank announced in 1999 its Comprehensive Development Framework, based on four principles: country ownership of the policy agenda, programs based national consultations, partnership with all stake holders or donors, and attention to social and structural concerns and financial issues. Not many countries have yet adopted such a framework but one country that did, Bolivia in 1997, is a good example of how such initiatives can be made consistent with our approach to the right to development. Bolivia adopted a National Action Plan, in the form of the country's five-year development program, with the aims, to increase the rate of growth with better distribution, to raise the living standards of the poor and disadvantaged and to strengthen the institutional framework for better justice and a corruption-free administration. The plan which was for reducing poverty with dignity and empowerment, was set in a program of structural change, with macro-economic stability. The plan was prepared through a process of elaborate consultation between the government and the civil society, NGOs, unions,

church groups, opposition parties, academics and the private sector. The World Bank organized a Consultative Group meeting of all the donors for effective coordination between them, as result of which the donors pledged 45 percent more aid than before.

62. The other initiative was the preparation of Poverty Reduction Strategy Papers by countries in collaboration with the IMF and the World Bank that would serve as a basis of increased financial assistance from a new IMF facility as well as from the World Bank and other donors, in cooperation with each other. The strategy, based on the removal of the obstacles to poverty reduction, well designed public actions through a participatory process to achieve poverty reduction targets in a framework of rapid and sustained growth with macro-economic stability, would be the result of a process of participatory dialogue within the country between the government, the private sector and the civil society. This strategy would be quite consistent with our approach to the realization of the right to development if the human rights concerns are clearly taken into account and a rights based approach is adopted in the formulation of the schemes and policies of the national government, as well as in the methods of international cooperation.

63. The third initiative is related to the schemes of debt relief. The international community has increasingly recognized debt relief as one of the most important elements of international cooperation to enable the poor countries to achieve a reasonable growth of their resources needs for any program of poverty reduction and improved human development. The Heavily Indebted Poor Countries initiative to relieve the debts of the poorest countries that was announced in 1996 was revised as an enhanced HIPC program at the G7 Summit in Cologne in July 1999. It was aimed at poor countries who would adopt poverty reduction plan in accordance with the Poverty Reduction Strategy Paper, drawn up in collaboration with the Fund and the Bank. Regrettably, not much progress has been made in the implementation of this initiative. At Cologne, the G7 countries offered to reduce by as much as 70 percent the \$127 billion in debt owed by 33 impoverished countries, mostly in Africa. But one year later, little of that relief has materialized, although several countries have worked out appropriate programs for removing poverty.

V CONCLUSION AND PROPOSED GUIDELINES FOR REALIZING THE RIGHT TO DEVELOPMENT

64. In light of the discussions above, it may be useful now to reformulate the strategy for realizing the right to development that the Independent Expert proposed in the 1999 report. The right to development in short is the right to a particular process of development that allows the realization of economic, social, and cultural rights as well as civil and political rights and all fundamental freedoms by expanding the capabilities and choices of the individual. The realization of the rights has to be based on a program of coordinated actions in the form of a development plan that strives for growth of GDP and other resources as well as the sustained improvement of the social indicators related to the different rights. All the individual and interdependent schemes need to be designed and implemented following the rights-based approach based on empowerment and participation in the decision-making and execution, with transparency and accountability, and equity and non-discrimination in the enjoyment of the benefits. Such a plan would of course be totally different from the earlier forms of central planning, and would be based entirely on decentralized decision-making with the participation and empowerment of the beneficiaries. The plan has to be formulated through a process of consultation with the civil society and the beneficiaries in a non-discriminatory and transparent manner.

65. In the initial phase, such a development plan may concentrate on a well-designed and well-targeted program for the eradication of poverty in its broad dimensions; not just income-poverty, but also the deprivation of capabilities. The reduction of income-poverty would require a plan that would not only raise the rate of growth of the country but also a change in the structure of production to facilitate the income growth of the poor as well as increased equality of consumption both within a region and between the regions. In addition to this, there will have to be improvement of the social indicators that expand the capabilities following the rights based approach consistent with the planned rate of growth of the overall output and of the indicators and their interdependence.

66. To facilitate the realization of the process in a step by step manner, the Independent Expert proposed first taking up the realization of three rights; the right to food, the right to primary health and the right to primary education. But if a country prefers to choose other rights first, that can be accommodated without any difficulty into the program. The Independent Expert proposed implementing the program through a development compact between countries concerned and representatives of the international community, the major donors and the international financial institutions. The purpose of working through such a development compact is to highlight the importance of international cooperation in implementing the right to development. The country concerned will have to implement it in a rights-based manner. The representatives of the international community, who may form a Support Group, will accept a reciprocal obligation of providing all the necessary support for implementing the program, including sharing the cost of the program if the concerned developing country carries out its responsibility.

67. The national obligations of a developing country adopting the rights-based program have been clearly spelt out in different Working Group Reports on the Right to Development especially in the 1998 report. "States should be encouraged to consider legislation and constitutional changes (when their legal system so permits) which are designed to guarantee that treaty law takes precedence over internal law and that treaty provisions are directly applicable in the internal legal order." "States should take measures to ensure that the poor and the vulnerable groups including landless farmers, indigenous people and the unemployed have access to productive assets such as land, credit and means of self-employment." Or, "In areas where conflicts of any type have occurred or are occurring, states should ensure that the population living in the affected areas is able to retain the right to their property and legally acquired rights." Similarly, the recommendation regarding the civil society and non-governmental organizations, policies encouraging their greater participation, especially of those groups that represent the vulnerable sections, such as the poor, the homeless and the unemployed, and the public interests groups (e.g. consumer, environmental, human rights and women's rights organizations) in the local and national decision making should be implemented. Most importantly, the state governments must introduce whatever legal changes are necessary to ensure gender equality in jobs, education, health care and other activities.

68. The obligations of the international community have also been set out in the different human rights instruments. Every effort has to be made to ensure equality of treatment in the decision making and operations of the international financial and trading system, such as the IMF, the World Bank, the WTO and bilateral arrangements including, as we have discussed, the reduction in commodity and export earnings fluctuations, reduction of the debt burden and improved access to exports from and capital flows into developing countries.

69. The reciprocal obligations that will be have to be spelt out in the development compacts must be worked out carefully. The developing countries must accept the primary responsibility of implementing the programs for realizing the right to development covered by the compact, with all the necessary policies and public actions. But several studies of the World Bank and the IMF have shown that the usual process of imposing conditionality in the financial programs did not work in most cases because they appeared to be imposed from outside and therefore not owned by the developing countries. It is imperative that whatever conditionality or obligations that the developing countries have to take up should be seen by them as in their own interest and should be monitored mostly by themselves. In a rights based approach, this is particularly important to ensure equality of treatment.

70. In a development compact, the developing countries will have to take up obligations regarding fulfilling and protecting human rights. The most equitable manner of monitoring the fulfillment of those obligations would be through the national human rights commissions consisting of eminent and important personalities from the country itself. For that purpose, all countries wishing to implement the right to development through development compacts will have to set up national commissions, which will investigate and adjudicate on violations of human rights. Indeed, that is initially the only way to ensure against such violations. No country in the world could claim that there are absolutely no violations of human rights in that country. All that can be ensured is that there is an adequate mechanism in the legal systems to redress such violations. If a developing country sets up a national human rights commission in accordance with international norms and if it can function independently without any hindrance or obstacle, and if appropriate legislation is framed, then that should be a sufficient guarantee that the country would carry out its human rights obligation according to the development compact.

71. The obligation of the international community should also be clearly be set out in the context of the development compact. If the developing country carried out its obligations, the donor countries and the international agencies must ensure that all discriminatory policies and obstacles to access for trade and finance are removed, and the additional cost of implementing those rights is properly shared. The exact share may be decided case by case or in accordance with an international understanding of say half-and-half share of the additional cost between representatives of the international community and the country concerned.

72. The details of these compacts and the rights-based approach to the implementation of such a program may be worked out, without much difficulty by the experts from the country concerned and of the international agencies who have been involved in these countries and are experienced in these fields. What is necessary is political will, a determination by all the countries who have accepted the right to development as a human right that they would implement the right to development in a time bound manner through obligations of national actions and international cooperation.