

# THE RIGHT TO DEVELOPMENT

*Current state of the debates held at the U.N. on the  
implementation of the historic Declaration adopted  
in this regard by the General Assembly of the  
United Nations on 4 December 1986*

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## Introduction

The last decade has been marked by an unprecedented increase in inequalities and a spectacular growth of the gap between “developed” countries and those of the Third World as well as the growth of a gap within countries themselves.

This is attested to by reports from the United Nations, by international conferences and even by the international financial institutions. The following suffices to illustrate this:

*“Debates about trends in global income distribution continue to rage. Less open to debate is the sheer scale of inequality. The world’s richest 500 individuals have a combined income greater than that of the poorest 416 million. Beyond these extremes, the 2.5 billion people living on less than \$2 a day – 40% of the world’s population – account for 5% of global income. The richest 10%, almost all of whom live in high-income countries, account for 54%.”<sup>1</sup>*

This catastrophic increase in poverty and inequality makes it imperative to promote and implement the *Declaration on the Right to Development*.

Adopted by the U.N. General Assembly in 1986, this declaration appears as a sort of final offspring among the efforts undertaken by the non-aligned movement of the 1960s and 1970s, when it still had the power and conviction to pursue cogent militancy in favor of a new international economic world order more just and more equitable.

Although the *Declaration* has never really been implemented, it retains all its legal, political and moral pertinence.

*The Declaration on the Right to Development* constitutes an international instrument of primary importance, for it asserts the right to development as a human right in all its dimensions and unequivocally clarifies the principles that should regulate international relations, all in a spirit of equality and mutual respect tending toward its full realization. It emphasizes collective rights, the right of peoples to choose their own development model, and insists on international cooperation among countries, a cooperation which is not reduced to simple international aid, even though such aid may be deemed “essential” (Art. 4, §2). In this regard, it constitutes, overall and along with the corpus of human rights instruments, a further instrument for peoples in the struggle against neoliberalism.

There is thus nothing surprising in its being viciously attacked today. Some countries in the North have tried to undermine it totally; others have tried to water it down or pervert its intent. It is diametrically opposed to current dominant policies, in particular those championed by the IMF, the World Bank, the

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<sup>1</sup> V. UNDP, *Human Development Report 2005*, “Overview: International cooperation at a crossroads – Aid, trade and security in an unequal world”: [http://hdr.undp.org/reports/global/2005/pdf/HDR05\\_overview.pdf](http://hdr.undp.org/reports/global/2005/pdf/HDR05_overview.pdf).

WTO, the G-7/G-8 or NATO, which aim to suppress any penchant of the people of the Third World to try to adopt autonomous policies and a development model suited to their own needs. The new ruling castes of the South are more preoccupied with assuring themselves a place in the neo-liberal world order – even if it is only on its margins – than promoting “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 benefits resulting therefrom” (from the preamble of the *Declaration*). These elites defend the *Declaration* half-heartedly and ambiguously – to the extent that they defend it at all.

In our opinion, however, the *Declaration* can constitute, for social movements, a significant moral and legal reference that they can cite with confidence and claim as their own. It also enables them to remind their governments of the commitments made in approving the *Declaration*, especially when those governments sign “letters of intention” imposed on them by the IMF, when they ratify WTO “agreements” or accept transnational corporations’ investment and exploitation of their resources.

The purpose of this brochure is to present the *Declaration on the Right to Development* – still largely unknown among most civil society organizations – and relate the evolution of the discussions and what is at stake in its regard within the U.N. human rights instances, all while examining the perspectives it opens.

To facilitate the reading and the understanding of the arguments presented, we are reproducing below the full text of the *Declaration on the Right to Development*.

## ***Declaration on the Right to Development***

Adopted by General Assembly resolution 41/128 of 4 December 1986

The General Assembly,

*Bearing in mind* the purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

*Recognizing* that development is 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 benefits resulting therefrom,

*Considering* that under the provisions of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized,

*Recalling* the provisions of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights,

*Recalling further* the relevant agreements, conventions, resolutions, recommendations and other instruments of the United Nations and its specialized agencies concerning the integral development of the human being, economic and social progress and development of all peoples, including those instruments concerning decolonization, the prevention of discrimination, respect for and observance of, human rights and fundamental freedoms, the maintenance of international peace and security and the further promotion of friendly relations and co-operation among States in accordance with the Charter,

*Recalling* the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development,

*Recalling also* the right of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources,

*Mindful* of the obligation of States under the Charter to promote universal respect for and observance of human rights and fundamental freedoms for all without distinction of any kind such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Considering* that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind,

*Concerned* at the existence of serious obstacles to development, as well as to the complete fulfilment of human beings and of peoples, constituted, inter alia, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms,

*Considering* that international peace and security are essential elements for the realization of the right to development,

*Reaffirming* that there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries,

*Recognizing* that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development,

*Recognizing* that the creation of conditions favourable to the development of peoples and individuals is the primary responsibility of their States,

*Aware* that efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order,

*Confirming* that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,

*Proclaims* the following Declaration on the Right to Development:

#### Article 1

1. 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.
2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

#### Article 2

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development.
2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone

can ensure the free and complete fulfillment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.

3. States have the right and the duty to formulate appropriate national development policies that aim 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.

#### Article 3

1. States have the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development.

2. The realization of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.

3. States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfill their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.

#### Article 4

1. 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.

2. Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.

#### Article 5

States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.

#### Article 6

1. All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion.

2. All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the

implementation, promotion and protection of civil, political, economic, social and cultural rights.

3. States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic social and cultural rights.

#### Article 7

All States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries.

#### Article 8

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.

2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.

#### Article 9

1. 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.

2. Nothing in the present Declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, group or person has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights and in the International Covenants on Human Rights.

#### Article 10

Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.

# **I. A BRIEF PRESENTATION OF THE *DECLARATION ON THE RIGHT TO DEVELOPMENT***

The *Declaration on the Right to Development* reproduced above – a close reading of which we strongly recommend – was adopted on 4 December 1986 by a vote of 146 in favor, eight abstentions<sup>2</sup> and one against – the United States. At the 1993 World Conference on Human Rights in Vienna, it was acclaimed by consensus.

The Conference declared “the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.”<sup>3</sup>

## **A. Definition and characteristics of the right to development**

### ***1. Definition***

The first article of the *Declaration* gives the most thorough and succinct definition of development ever elaborated by the United Nations system and deserves particular attention.

“1. 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.

“2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.”

In the second paragraph of the preamble, the concept “development” is described 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”.

Further, the following elements, in particular, establish the existence of the right to development: the right to self-determination, the right to an international economic order, the right to sovereignty over resources, the international

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<sup>2</sup> Denmark, Finland, Germany, Iceland, Israel, Japan, Sweden and the United Kingdom. V. the list of votes in the Annex.

<sup>3</sup> *Report of the World Conference on Human Rights*, “Vienna Declaration and Program of Action”, § 10:  
[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.24+\(PART+I\).En?OpenDocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.24+(PART+I).En?OpenDocument) .

conventions on civil and political rights and on economic, social and cultural rights.

Article 8 gives the constituent elements of this right, to wit the right to food, the right to health, to education, to adequate housing, to employment etc. Also included are the right to participation by the people, the right to an equitable distribution of income and the right to the elimination of all social injustices through economic and social reforms.

## **2. Characteristics**

The right to development is an inalienable right (Art. 1). All the aspects of it given in the *Declaration* are indivisible and interdependent (Art. 9). Indeed, as asserted in Article 6, all human rights are indivisible and interdependent.

## **B. The fundamentals of the right to development**

The fundamentals of the right to development are listed in the preamble. They are, in particular, the *Charter of the United Nations*, the *Universal Declaration of Human Rights*, and the two international human rights covenants.

The *Declaration on the Right to Development* speaks of the “purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation” (Art. 1, Art. 55, Art. 56, in particular). It refers to the *Universal Declaration of Human Rights* in relation to the right to a system or world order within which all rights can be realized. Reference is also made to the above cited two international conventions.

## **C. Implementation**

### **1. Those implicated in implementation**

Governments are the main agents in implementing the *Declaration on the Right to Development*. This is justifiable not only by their being subjects of international law, but also by their representing their people and having the means and the legitimacy to enact laws and to take other measures to attain this goal. Moreover, the *Declaration* deliberately gives them “the primary responsibility for the creation of national and international conditions favorable to the realization of the right to development” (Art. 3 §1).

Parallel to this, it makes human beings and people not only subjects of this right (Art. 2, §1), but its central agents, and it emphasizes their participation (Art. 2, §3; Art. 8 §4).

The *Declaration* accords great importance to the “duty” of states “to co-operate with each other in ensuring development and eliminating obstacles to development” (Art. 3, §3), while creating “national and international conditions favorable to the realization of the right to development” (Art. 3, §1).

## ***2. Obligations and means involved in implementation***

Among the means for implementation, the *Declaration* emphasizes international cooperation (preamble) and the duty of states “to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development” (Art. 4, §1).

It requires governments to take “sustained action” for the rapid development of developing countries and “effective international cooperation” (Art. 4, §2).

It also requires states to eliminate obstacles to the realization of the right to development such as foreign occupation, colonialism, aggression, the threat of war, the non-respect of the rights of peoples to self-determination and of civil, political, social economic and cultural rights (Art. 5 and Art. 6) and to “achieve general and complete disarmament under effective international control” (Art. 7) in order to use the resources thus spared in favour of “comprehensive development, in particular that of the developing countries” (Art. 7).

## **II. PROGRESSIVE REINFORCEMENT OF THE RIGHT TO DEVELOPMENT**

### **A. The principle proposed by Art. 10**

Article 10 states: “Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.”

Yet, in the context of globalization, and with the implementation of neo-liberal policies almost everywhere in the world, the task remains formidable. The international financial institutions (IMF, World Bank) force states to implement neo-liberal policies through structural adjustment programs. The rules of the World Trade Organization, in spite of its declared principle of equality among states, only reinforce the position of the strongest countries. Through their policies, these institutions aim for the hegemony of market forces to the detriment of democratic rule and development. In such a context, it must be emphasized that, when states are put under pressure, they tend to abandon their role and their responsibilities, which consist, among others, of promoting equality and justice in the distribution of wealth. Unfortunately, they limit themselves to lobbying and repression, for the benefit of transnational corporations. The “space” thus made available by states is “occupied” by various bodies, national and international, whose activities cannot, however, replace governmental action as a response to the immense need of populations whose poor and oppressed continue to grow in number.

The right of peoples to self-determination and to sovereign control over their resources and their future is thus at the heart of the right to development. This is why governments, the main actors in the realization of the right to development, cannot yield their prerogatives to “the invisible hand of the market”.

Among the urgent measures required to break out of this impasse, one can cite democratization and transparency in the decision-making of the above mentioned institutions, by reforming them from top to bottom or by replacing them with others, and the creation of a legal framework for transnational corporations (at the national and international level both).<sup>4</sup>

### **B. Obstacles to the right to development**

The obstacles to the realization of the right to development have long been known. For example, in its report presented to the 49<sup>th</sup> session of the

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<sup>4</sup> V. in this regard the CETIM brochure *Transnational Corporation and Human Rights*, November 2005.

Commission on Human Rights, the Secretary-General mentioned three major obstacles to the implementation of the right to development which remain thoroughly relevant: the non-respect of the right of peoples to self-determination; macro-economic policies at the international level; and the lack of coordination within the United Nations system.<sup>5</sup>

In spite of contradictions among their statements and remedies<sup>6</sup> (attributable mostly to the diversity of those intervening and to their inherently contradictory interests), several working groups (see below) have also identified numerous obstacles to the realization of the right to development.<sup>7</sup>

After examining a multitude of studies conducted over four decades by various United Nations bodies and by specialists, as well as, in particular, by the CETIM, we can state with certitude that the “Washington Consensus” constitutes one of the main obstacles to the realization of the right to development. In fact, a dispassionate assessment of the current situation substantiates that the crisis of neo-liberalism – with its concomitant spectacular development of financial speculation, turbulence and endemic instability – is the result of conscious policies imposed unilaterally with a fundamentalist fervour and with the sole purpose of serving the interests of finance capital and transnational corporations.

In this regard, the following points – far from exhaustive – that constitute the major obstacles to the realization of the right to development can be mentioned:

- the non-respect of the right to self-determination;
- armed conflicts (both domestic and international) and armaments;
- foreign debt and structural adjustment programs imposed by the international financial institution;
- unequal trade terms;
- economic policies favouring the power of transnational corporations in all areas;
- unequal distribution of wealth;
- capital flight and tax evasion;
- privatization of the world’s natural resources and wanton waste;
- human rights violations in general and violations of economic,

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<sup>5</sup> *Concrete proposals for the effective implementation and promotion of the Declaration on the Right to Development, Report of the Secretary-General*, E/CN.4/1993/16, §§ 20, 22:

[http://www.unhcr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.1993.16.En?Opendocument](http://www.unhcr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.1993.16.En?Opendocument) . V. also in this regard the *Global Consultation on the Right to Development as a Human Right*, January 1990, E/CN.4/1990Rev.1, §§ 161 to 169.

<sup>6</sup> For example, criticizing the structural adjustment programs as obstacles then wanting to entrust development questions to the same institutions that impose those programs.

<sup>7</sup> V., inter alia, E/CN.4/1996/24  
[http://www.unhcr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.1996.24.En?Opendocument](http://www.unhcr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.1996.24.En?Opendocument) ,  
E/CN.4/1998/29  
[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.1998.24.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.1998.24.En?Opendocument)  
and E/CN.4/2002/28/Rev.1  
<http://www.ohchr.org/english/issues/development/taskforce2007-documents.htm> .

- social and cultural rights in particular;
- lack of international cooperation;
- lack of participation by people at all levels;
- corruption;
- brain drain...

## **C. The working groups and the questioning of the right to development**

After the *Declaration on the Right to Development* was adopted by the General Assembly, the Commission on Human Rights examined the question of the means of implementing it at the national and international levels.

With this in mind, it proposed, in 1989, a world consultation on the implementation of the right to development.<sup>8</sup> This consultation was organized in Geneva in January 1990 and resulted in important conclusions such as the definition of the content of the right to development, identification of obstacles to its implementation and recommendations on the measures to be taken (on both the national and international level) to realize the right to development.<sup>9</sup> It should be pointed out that today, this considerable work, still largely valid, has been largely neglected.

Following the Global Consultation and during the 1993 Vienna conference, where a consensus was reached regarding the *Declaration on the Right to Development*, three working groups were set up within the Commission on Human Rights to deal with the implementation of the right to development.

### ***1. First working group***

The first working group, set up in conformity with Resolution 1993/22 of the Commission on Human Rights, ran for a period of three years. The group comprised fifteen experts.<sup>10</sup> Its mandate was to “(a) to identify obstacles to the implementation and realization of the Declaration on the Right to Development, on the basis of information furnished by Member States and other appropriate sources; (b) to recommend ways and means towards the realization of the right to development by all States”.

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<sup>8</sup> Resolution 1989/45 of the Commission on Human Rights.

<sup>9</sup> *Global Consultation on the Right to Development as a Human Right*, January 1990, E/CN.4/1990Rev.1

<sup>10</sup> In keeping with the principle of equitable geographic distribution, the following persons were appointed by the chair of the 49<sup>th</sup> session of the Commission on Human Rights from among the candidates proposed by various governments: Mohammed Ennaceur (Tunisia), Alexandre Farcas (Rumania), Ligia Galvis (Colombia), Stuart Harris (Australia), Stéphane Hessel (France), Sergei Kossenko (Russian Federation); Osvaldo Martínez (Cuba), Niaz A. Naik (Pakistan), D.D. C. Don Nanjira (Kenya), H. Pedro Oyarce (Chili), Pang Sen (China), A. Rimdap (Nigeria), Allan Rosas (Finland), Haron Bin Siraj (Malaysia), Vladimir Sotirov (Bulgaria). Starting with the fourth session, Silvio Baró Herrera (Cuba) replaced Osvaldo Martínez, and Orobola Fasehun (Nigeria) replaced A. Rimdap.

The group elected Mohammed Ennaceur (Tunisia) as its chair and held five sessions between November 1993 and October 1995. It identified a number of obstacles to the implementation of the *Declaration on the Right to Development* and formulated proposals, recommendations and remedies. Moreover, it discussed the conceptual aspect of the right to development, although this was not part of its mandate.

The working group did not manage to reach a consensus to adopt its final report.<sup>11</sup> The Cuban expert and his alternate<sup>12</sup> reproached the report for being “slyly critical of the text of the Declaration on the Right to Development itself”. Further: “Some parts of the report are worded in a way that could serve as grounds for actions that would be run counter to the very essence of the right to development and, in particular, for actions directed against those who have been its main proponents – the developing countries.”<sup>13</sup>

Nonetheless, the working group recommended to the Commission on Human Rights that the work be pursued by an intergovernmental group of experts in order “(i) to continue to develop the conceptual aspect of the right to development; (ii) to elaborate some guidelines for the full implementation of the Declaration on the Right to Development; (iii) to elaborate a global strategy for the promotion of the full realization of the right to development.”<sup>14</sup>

## 2. *Second working group*

The Commission on Human Rights set up another working group in 1996 for a period of two years with a mandate to “elaborate concrete and practical measures for the implementation and promotion of the right to development”.<sup>15</sup>

Comprising ten experts,<sup>16</sup> the working group held two sessions presided over by, respectively, Krzysztof Drzewicki (Poland) and Antonio García Revilla (Peru).

If the first report of the working group drew sharp criticism from the Malaysian expert, Martin Khor Kok Peng, the second and last report drew criticism mostly from governments.

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<sup>11</sup> V. the Report of the Working Group on the Right to Development on its fifth session, E/CN.4/1996/24:  
[http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.1996.24.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.1996.24.En?Opendocument) .

<sup>12</sup> Silvio Barò Herrera, expert, and Adolfo Curbelo Castellanos, alternate.

<sup>13</sup> V. Annex 1 to the report, E/CN.4/1996/24, §§ 8 & 9:

[http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.1996.24.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.1996.24.En?Opendocument) .

<sup>14</sup> *Report of the Working Group on the Right to Development on its fifth session*, E/CN.4/1996/24, § 305:  
[http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.1996.24.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.1996.24.En?Opendocument) .

<sup>15</sup> Resolution 1996/15:

<http://www.unhchr.ch/Huridocda/Huridoca.nsf/e6802d4a3d1ddbefc1256610002ee274/ed6cb533815034068025668a00581f5e?OpenDocument> .

<sup>16</sup> Gudmundur Alfredsson (Iceland), Krzysztof Drzewicki (Poland), Margarita Escobar López (El Salvador), Antonio García Revilla (Peru), Martin Khor Kok Peng (Malaysia), Thérèse Pujolle (France), Shaheed Rajie (South Africa), Vladimir Sotirov (Bulgaria), Cheik Tidiane Zhiam (Senegal), Bozorgmehr Ziaran (Iran).

Mr Khor was opposed to any agreement on cooperation and dialogue between the World Bank and human rights programs, arguing – rightly – that “the international financial institutions (including the World Bank) have been identified as themselves being obstacles to the realization of the right to development, and of economic, social and cultural rights, owing to the effects of their structural adjustment policies.”<sup>17</sup>

The countries of Europe (in particular France, Italy and the Netherlands) expressed satisfaction with the final report, which they found “well balanced”, whereas the countries of Latin America (Brazil, Cuba and Mexico, most notably) deplored that the report had not accorded sufficient attention to the international dimensions of the right to development.<sup>18</sup>

However, the working group adopted the “suggestions for a global strategy for the promotion and implementation of the right to development” and recommended the creation of a follow-up mechanism for implementing the *Declaration on the Right to Development*.<sup>19</sup>

Regarding the follow-up mechanism, the working group suggested several options: 1. the Commission on Human Rights itself; 2. the creation by the Secretary-General of a high-level group of experts, in conformity with the principle of equitable geographic distribution; 3. the creation of a working group of the Commission on Human Rights composed of experts appointed by the regional groups; 4. the creation of a committee on the right to development composed of X states for a period of Y years.

### 3. Third working group

Taking into account the difficulties encountered by the first two working groups in attempting to achieve real progress on this question, the Commission on Human Rights, in 1998, set up a new intergovernmental working group, this time open-ended,<sup>20</sup> with the following mandate:

*“to monitor and review progress made in the promotion and implementation of the right to development as elaborated in the Declaration on the Right to Development, at the national and international levels, providing recommendations thereon and further analyzing obstacles to its full enjoyment, focusing each year on specific commitments in the Declaration; (ii) to review reports and any other information submitted by States, United Nations agencies, other relevant international organizations and nongovernmental organizations on the relationship between their activities and the right to development”.*<sup>21</sup>

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<sup>17</sup> V. *Progress report of the Intergovernmental Group of Experts on the Right to Development on its first session*, final section, § 3, “Comments on the proposed cooperation between the human rights programmes and the World Bank submitted by the expert member from Malaysia, Mr. Martin Khor”, E/CN.4/1997/22: <http://www.hri.ca/fortherecord1997/documentation/commission/e-cn4-1997-22.htm> .

<sup>18</sup> Annex to the report of Group of Experts on the Right to Development E/CN.4/1998/29: <http://daccessdds.un.org/doc/UNDOC/GEN/G97/142/19/PDF/G9714219.pdf?OpenElement> .

<sup>19</sup> Report of Group of Experts on the Right to Development E/CN.4/1998/29: <http://documents-dds-ny.un.org/doc/UNDOC/GEN/G97/142/19/pdf/G9714219.pdf?OpenElement> .

<sup>20</sup> Open to participation by all member states of the U.N., without exception.

The chair of the 46<sup>th</sup> session of the Commission also appointed a “high level” independent expert in the person of Arjun Sengupta (India) to help the working group in its efforts, particularly in conducting a study on “the current state of progress in the implementation of the right to development”.<sup>22</sup>

This working group did not elect its chair until February 2000, in the person of Mohamed-Salah Dembri, ambassador of Algeria, and – for this reason – did not hold its first session until September 2000. The working group held its sessions under the chair of Mr Dembri.

Although the group spent most of its time discussing the “content” of the right to development under pressure from the Western group,<sup>23</sup> it reached a consensus – with the exception of the United States – during its third session on a number of conclusions and recommendations relative to the implementation of the *Declaration on the Right to Development*.<sup>24</sup> It also agreed “to discuss further the proposals for a suitable permanent follow-up mechanism for the implementation of the right to development”.<sup>25</sup>

After the ephemeral presence of Bonaventure M. Bowa (Zimbabwe) at the head of the group, it was chaired by Ibrahima Salama (Egypt) starting with its fifth session, and its mandate has been regularly extended since then, including by the new Human Rights Council. On the other hand, the Commission also authorized, in 2004, the creation of a High Level Task Force within the working group, to support it in its work.<sup>26</sup> Like the working group’s mandate, that of this sub-group has been regularly extended since its inception.

### **The position of the governments**

The setting up of an open-ended intergovernmental working group is surely the best solution for the time being. Any and all positions can be expressed there and contributions made to the drafting of recommendations and measures to be taken to implement the right to development. All the same, the structure contains inherent difficulties within itself, for, in an organization that functions on the principle of consensus, divergent points of view and conflicting interests must be conciliated.

From the out set, the meetings of the third working group have been the scene of confrontations between the various interest groups over the conception and the vision of the right to development or even the idea of development in and of itself. There follows a brief summary of their positions.

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<sup>21</sup> Resolution 1998/72, § 10: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/f1108590029253708025667100324c12?Opendocument> .

<sup>22</sup> *Ibid.*

<sup>23</sup> To such an extent that the CETIM was obliged to launch an international petition among civil society organizations (social movements and NGOs) to defend the *Declaration on the Right to Development*. V. Annex 2.

<sup>24</sup> *Report of the open-ended Working Group on the Right to Development on its third session*, E/CN.4/2002/28/Rev: [http://www.unhchr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/E.CN.4.2002.28.Rev.1.En?Opendocument](http://www.unhchr.ch/Huridocda/Huridoca.nsf/(Symbol)/E.CN.4.2002.28.Rev.1.En?Opendocument) .

<sup>25</sup> *Ibid.*, § 118.

<sup>26</sup> Resolution 2004/7 of the Human Rights Council.

For the G77,<sup>27</sup> conditions favorable to the realization of the right to development and the sustainable efforts at the national level are largely dependent upon effective international cooperation and a favorable economic environment. Establishing and maintaining such conditions is a challenge, according to the G77. It calls for “good governance” at the international level (commitment, transparency and democratization), specifically on the part of the international financial institutions and the U.N. bodies.

The Latin American and Caribbean Group<sup>28</sup> deplores an international climate unfavorable to the realization of the right to development: dependence on basic commodities, trade rules etc. It calls for cooperation and the financing of development, which should be based on multilateral agreement.

For the African Group and the Like Minded Group,<sup>29</sup> the obstacles to international cooperation are an unjust and unequal international order, the marginalization of the South in the decision-making processes, the burden of the foreign debt, obstacles to market access for countries of the South, the principle of reciprocity and shared responsibility in international cooperation, imposed conditions that these groups reject etc.

The European Union considers national responsibility the corner stone of development. Good governance is essential for sustainable development and the eradication of poverty. Further, the European Union insists on conditions being attached to their cooperation.

The United States believes that measures taken at the national level are fundamental for realizing the right to development. It pleads in favor of good governance, the elimination of corruption and the opening of markets in the countries in the South. It claims that there is no consensus on the right to development.

For Japan, the notion of “compulsory” international cooperation poses a problem, for it is not “automatic”. As for the cancellation or restructuring of the debt of the countries of the South, that is the domain of the Club of Paris.

For Switzerland, respect for, and implementation of, human rights are compulsory, but international cooperation should be based on good faith.

According to Egypt, it is not sufficient to cancel or restructure the debt, but measures must be taken to assure that the vicious cycle does not perpetuate itself.

For Australia, the Doha Declaration<sup>30</sup> is a contribution to the realization of the right to development. India and Pakistan contest this position. India deplores the non-respect of the exception clauses in the WTO agreements, and

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<sup>27</sup> Founded on 15 June 1964 by the *Common Declaration* of the 77 countries of the United Nations Conference on Trade and Development (UNCTAD), the G77 aims to promote the collective economic interests of its members and to create a setting for negotiation at the international level. It currently comprises 130 member countries. V. <http://www.g77.org> .

<sup>28</sup> One of the five official U.N. regional groups.

<sup>29</sup> Comprising : Algeria, Bangladesh, Belarus, Bhutan, China, Cuba, Egypt, India, Indonesia, Malaysia, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka, Sudan, Vietnam and Zimbabwe.

<sup>30</sup> Adopted in November 2001 at the WTO summit in Doha.

Pakistan calls for the revision of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Iran and Cuba denounce the obstacles to the right to development created by embargoes and unilateral coercive measures.

### **The position of the independent expert**

Appointed in 1999 in accordance with Resolution 1998/72 of the Commission on Human Rights, with the mandate to conduct “a study on the current state of progress in the implementation of the right to development”, the independent expert has spent most of his time over the past six years exploring the “content” of the right to development.

One may summarize as follows the positions defended by him in his six successive reports presented to the working group.<sup>31</sup>

The independent expert defines the right to development as “the right to a process of development” that allows the realization of all basic rights and freedoms. It thus confounds development, which is necessarily a process, with the right to development, which is a right in and of itself as defined by Art.1 of the *Declaration on the Right to Development* (v. Chapter 1.A.1). This position of the expert has been criticized, from various angles, by almost all countries.

The reproach can also be made that the independent expert has not, in his reports, pursued in sufficient detail structural and systematic analyses of the causes and implications of the present situation; that the collective dimension of the right to development has not been sufficiently taken into account, that no policy strategy has been sketched out, nor even have the requirements of such a strategy been analysed, for a real promotion of the right to development.<sup>32</sup>

Moreover, the independent expert has proposed “development compacts” – mentioned in several of his reports – whose provisions remain vague and, occasionally, even dangerous. In one of his reports, the independent expert proposed that such compacts be placed under the aegis of the Organization for Economic Cooperation and Development (OECD).<sup>33</sup> This proposal is not only inappropriate but inadmissible. The OECD is a body dominated by the governments of rich countries that are the major artisans of neo-liberal policies, which, in many respects, impede the enjoyment of human rights. Thus, any discussion on a proposed “compact” must be conducted within the appropriate bodies of the U.N., the only universal organization capable of confronting this challenge in conformity with the U.N. Charter.

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<sup>31</sup> For further information, v. the CETIM’s statements on the right to development on its site: [http://www.cetim.ch/en/dossier\\_dev.php](http://www.cetim.ch/en/dossier_dev.php) .

<sup>32</sup> V. the CETIM’s written statement to the Working Group, E/CN.4/1999/WG.18/CRP.3: [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/078df144750210cb802568af00348bed/\\$FILE/G9916136.pdf](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/078df144750210cb802568af00348bed/$FILE/G9916136.pdf) .

<sup>33</sup> V. “Development Compacts”, in *Fourth report of the independent expert on the right to development*, §§ 56-74, E.CN.4/2002/WG.18/2: [http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/42fb12931fb5b561c1256b60004abd37/\\$FILE/G0116402.doc](http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/42fb12931fb5b561c1256b60004abd37/$FILE/G0116402.doc) .

## The position of the High Level Task Force

Created by the working group in 2004, the High Level Task Force comprises five members<sup>34</sup> as well as “high level” representatives from institutions and organizations in the areas of trade, development and finance who participate with the status of “experts”.<sup>35</sup>

Since its inception, the High Level Task Force has held three sessions. Besides the first, which was devoted, de facto, to the content of its mandate,<sup>36</sup> owing to the divergences of opinion among its members, its successive sessions concentrated on Millennium Development Goal 8 to “develop a global partnership for development” and “criteria for assessing the realization of the right to development”.<sup>37</sup>

Two main points of criticism can be leveled at the Task Force: its mandate and its composition.

First of all, its mandate is entrusted to a special team that is not up to the task. The Millennium Goals must not be confused with the right to development, which is a human “right”, inalienable, indivisible and non-negotiable. In this regard, it requires, as does every human right, immediate measures for its realization. The Millennium Goals, on the other hand, which deal neither with the structural causes of poverty nor with under- (or bad -) development, merely describe a general frame work for “development” – a frame work whose appropriateness, moreover, is contradicted by historical experience<sup>38</sup> – and that, for this reason, can, at best, only partially contribute to the realization of the right to development.

<sup>34</sup> Since the setting up of this body, several of its members have left it. Currently, the following persons serve on it: Solita Collas Monsod (Philippines), Stephen Marks (United States), Margaret Sekaggya (Uganda), Nicolaas Schrijver (Netherlands), Jorge Vargas Gonzalez (Colombia). The group has been chaired since its second session by Stephen Marks. V. *Report of the High-Level Task Force on the implementation of the right to development on its third session*, A/HRC/4/WG.2/TF/2:

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/107/79/PDF/G0710779.pdf?OpenElement> .

<sup>35</sup> The following institutions are involved: United Nations Development Program (UNDP), the United Nations Children’s Fund (UNICEF), the International Monetary Fund (IMF), the World Bank and the World Trade Organizations (WTO).

<sup>36</sup> The Task Force’s mandate, as it was defined by the working group is the analysis of the following points : 1. obstacles and challenges to the implementation of the Millennium Development Goals for development from the point of view of the right of development; 2. studies of social impact at the national and international level in the areas of trade and development; 3. best practices in the implementation of the right to development. V. *Report on the working group on the right to development on its fifth session*, § 49, E/CN.4/2004/23:

<http://daccessdds.un.org/doc/UNDOC/GEN/G04/140/32/PDF/G0414032.pdf?OpenElement> .

<sup>37</sup> V. the reports of the Task Force on its second and third sessions, respectively, E/CN.4/2005/WG.18/TF/3:

<http://www.ohchr.org/english/issues/development/docs/E.CN.4.2005.WG.18.TF.3.doc>

and A/HRC/4/WG.2/TF/2:

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/107/79/PDF/G0710779.pdf?OpenElement> .

<sup>38</sup> Regarding criticism of the Millennium Development Goals, v. the joint statement of the CETIM and the American Association of Jurists, “La lutte contre la pauvreté et les Objectifs du millénaire” (“The struggle against poverty and the Millennium Goals”), available in French and Spanish only: [http://www.cetim.ch/fr/interventions\\_details.php?iid=262](http://www.cetim.ch/fr/interventions_details.php?iid=262) .

Further, the partnership models (those of the New Partnership for Africa's Development – NEPAD – and the OECD) examined so far by the Task Force in drafting its criteria clearly indicate its ideological orientation.<sup>39</sup> The peer review mechanisms proposed by these models do not take into account the right to development. The concern for human rights in the activities of these bodies is at best doubtful for they are, above all, economic bodies that support unquestioningly the current international trade and finance system based on inequality. And this system only deepens the inequalities and incites to the worst violations of human rights and to ever greater poverty.

It would not occur to this Task Force, for example, to examine the recent Latin American initiative called the Bolivarian Alternative for the Americas (ALBA – *Alternativa Bolivariana para las Américas*).<sup>40</sup> Yet this initiative offers a real hope and draws implicitly on the right to development. The ALBA establishes the bases of a new form of integration, founded not on capitalist values of profit and pillage by transnational corporations but, on the contrary, on cooperation, solidarity and complementarity.

Second, the composition of the Task Force poses a serious problem. The representatives of the international trade and financial institutions (IMF, World Bank and WTO), who are part of the Task Force, with the status of “experts”, and who greatly influence its orientation, long ago announced that human rights were not included in their mandates. Do these institutions not operate on the sidelines of the United Nations system? In such conditions, how can one expect these institutions to contribute to the realization of the right to development in particular and to human rights in general? Moreover, are they not in large measure responsible for the disaster in the world over the past three decades, and is it not obvious that they are locked into the same policies all while claiming to aid the countries of the South?

The setting up of this body, which only distracts the discussions on the right to development, is to be decried. Although some timid criticism has been heard within the working group concerning the efforts of the Task Force,<sup>41</sup> one must admit that it has mostly approved (totally or in part) the proposals of the Task Force.<sup>42</sup>

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<sup>39</sup> V. the Task Force's report on its third session: A/HRC/4/WG.2/TF/2:

<http://daccessdds.un.org/doc/UNDOC/GEN/G07/107/79/PDF/G0710779.pdf?OpenElement> .

<sup>40</sup> Currently, four countries have joined this initiative: Bolivia, Cuba, Nicaragua and Venezuela. Ecuador participates in some of its projects and is studying the possibility of joining. V. the CETIM written statement on this to the fourth session of the Human Rights Council: [http://www.cetim.ch/en/interventions\\_details.php?iid=275](http://www.cetim.ch/en/interventions_details.php?iid=275) .

<sup>41</sup> See, *inter alia*, the statement of Malaysia in the name of the non-aligned countries and that of China, § 17 of the report of the Working Group on its seventh session, E/CN.4/2006/26:

<http://daccessdds.un.org/doc/UNDOC/GEN/G05/115/80/PDF/G0511580.pdf?OpenElement> .

<sup>42</sup> V. the reports of the Working Group on its sixth, seventh and eighth session, respectively, E/CN.4/2005/25

<http://daccessdds.un.org/doc/UNDOC/GEN/G05/115/80/PDF/G0511580.pdf?OpenElement> ,  
E/CN.4/2006/26

<http://daccessdds.un.org/doc/UNDOC/GEN/G06/110/34/PDF/G0611034.pdf?OpenElement> and  
A/HRC/4/47

### III. WHAT PERSPECTIVES FOR THE RIGHT TO DEVELOPMENT?

The three successive working groups have not been able to produce any significant progress in the implementation of the right to development. Worse, there is a regression in many Western countries which go so far as to question the consensus of Vienna, even if they do not say so officially – except for the United States.

The countries carry on a dialogue of the deaf. Otherwise, how to explain the position of the Western countries which, systematically, refuse to take measures at the international level (one of the essential provisions of the *Declaration on the Right to Development*) and keep invoking the “responsibilities” of the countries of the South? How, also, to explain their willingness to integrate human rights – selectively – into the development projects, to impose conditions on their cooperation (without committing themselves to anything in return) and their being “unaware” at the same time that the *Declaration on the Right to Development* includes all human rights (civil and political as well as economic, social and cultural) and that it is a right in and of itself comprising all the others, as the overwhelming majority of the members of the international community has insisted? How to explain their insistence on systematically referring development questions to the World Bank, to the OECD or to a discussion of the opening up of the markets of the countries of the South?

In such circumstances, things look grim for the right to development as long as one continues to believe that the West is the center of the world and that salvation must come from that quarter.

Each people must be able to find or invent its own path to development, in all its aspects.

Moreover, those who think that the right to development concerns only the countries of the South are very much mistaken and are apparently willing to ignore the huge problems confronting the countries of the North such as the undermining of social cohesion, the increase in unemployment, racism, insecurity (in all senses of the term, including the precariousness of living in poverty), the cultivation of conflicts by demagoguery etc.

No, development is not a problem that concerns only countries designated as “developing”. Rather, it is a goal that interests – or should interest – the entire international community by virtue of the interdependence – ever greater – that exists among all countries.

The independent expert himself has even affirmed that “...in the current context of globalization, every country, no matter where it stands in terms of per capita income level, needs insurance, in the form of an adequate and

appropriate social safety net, against exogenous economic shocks. At the same time, countries need requisite provisioning for social protection against the unanticipated and undesirable consequences of their own actions to prevent an increase in poverty, inequality and social exclusion of people.”<sup>43</sup>

As the right to development is a concern of all and, first and foremost, of states collectively, it is up to governments to take the necessary measures for its realization and create an adequate follow-up mechanism for the implementation of this right.

## **A. Measures for the realization of the right to development**

At the outset, it should be pointed out that the right to development cannot be reduced to the satisfaction of material needs and that there is no single development model applicable to all countries, given their individual situations and needs. All the same, any development policy worthy of the name should be based on the terms of the *Declaration on the Right to Development* and should promote human rights (civil, political, economic, social and cultural).

Thus, for the effective realization of the right to development, the two following principles must be scrupulously observed: the right of people to decide their own development policies and the participation of the people in all phases of decision-making concerning all aspects of development policies (physical, intellectual, moral and cultural).

It goes without saying that it is not enough to acknowledge or to affirm certain principles and rights. They must be implemented. In our opinion, the primary obstacle to the implementation of the right to development is to be found in the unjust international economic system that prevents peoples from working out their own development policies while it increases inequality and the overall deterioration at all levels. Yet the *Declaration on the Right to Development*, twenty years ago, already, foresaw the need to create “a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.” (Art. 3). It is high time to take concrete measures if we wish to prevent the crying social inequalities from giving way to all sorts of conflicts.

Among these measures, the democratization of the World Bank, the IMF and the WTO are essential, unless they are to be replaced outright by more adequate institutions. Although they are public, they cater to private interests, violating principles of democracy and good governance that they require poor countries to observe. It is no secret that at the IMF and the World Bank, voting is carried out in function of the capital invested by a member state<sup>44</sup> and that

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<sup>43</sup> V. the report of the independent expert “*Country studies of the right to development - Argentina, Chili and Brazil*”, E/CN.4/22004/WG.18/3: <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/4da116e87f934d05c1256e360034320c?OpenDocument>.

<sup>44</sup> For example, the United States, with US\$ 41 billion in capital at the IMF – which corresponds to about 18% of the total – is allotted 265,000 votes, roughly a fifth of all. The situation is

there is no transparency in these institutions any more than at the WTO. It is not tolerable that these institutions escape from democratic control.

The second measure that must be taken is to break with the “Washington Consensus”, which purveys the fiction according to which economic growth equals prosperity and respect for human rights. One must face the facts: it is indisputably proven that this growth benefits, most of the time, only private interests, a minuscule minority in the world, and that it is a source of serious human rights violations. The discussions under way today on development are questioning the current functioning of an economic order based essentially on oil, a non-renewable resource, harmful for the environment and for health, not to mention the armed conflicts that it generates with all their consequences. Moreover, can growth be infinite or unlimited?

The answer, for a finite planet, is obvious. As its name implies, the market economy deals with markets, and only with profitable markets. Taking into consideration the catastrophic situation of the world, one need not be a prophet to see that this “profitable” market will contract, more and more, not least in comparison with the number of impoverished people on the planet. Such thoughts are perhaps what prompted Joseph E. Stiglitz, former chief economist for the World Bank, when visiting Geneva three years ago, to declare that “when capitalism loses its head, it is not longer profitable”<sup>45</sup>

The third measure is to make international cooperation effective. This means emphasizing the public interest and preserving public services. Such cooperation goes well beyond the “ideal” public aid to development (the famous 0.7% of GDP) – far from being ever attained. It implies cooperation in pursuit of all development goals that all countries set for themselves to satisfy the basic need of their populations.

The fourth measure consists of general and total disarmament in order to allocate for development the colossal resources now absorbed by this destructive and deadly sector. For example, US\$ 50 billion per year would be enough to reach the Millennium Goals, even if they are far from adequate for development.<sup>46</sup> When one realizes that the United States alone spends currently more than US\$ 400 billion on armaments, the amount necessary to finance equitable development comes better into focus in all its modesty.

The fifth measure requires stopping the flight of capital and tax evasion. Governments must cease catering to private interests in offering “competitive” tax rates and in tolerating off-shore tax havens that allow transnational corporations to exempt themselves from taxes, thus depriving governments of much needed income.

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similar at the World Bank: the ten richest industrialized countries control 52% of the votes, whereas the 45 African countries together control only 4% of the votes. V. *La Bourse ou la Vie* published jointly by CETIM, CADTM, SYLLEPSE, PIRE, 1998.

<sup>45</sup> *Tribune de Genève*, 12 February 2004.

<sup>46</sup> Statement of the WTO representative to the fifth session of the Working Group on the Right to Development, Geneva, February 2004.

The sixth measure is the cancelling of the WTO negotiations on agriculture, for, beyond the choice of production and development in agriculture, putting rich countries in competition with small peasant farmers amounts to sentencing the small farmers to starvation. There can be no “free trade” between rich and poor countries, between the powerful and the powerless, the two, by definition, being inherently unequal, with unequal means and capacities. By cancelling the WTO agricultural talks, a humanitarian catastrophe will be avoided, to wit the exodus of rural populations on a huge scale (with some billion peasants deprived of all means of subsistence), and the concomitant increase of the world’s hungry.

The seventh measure is the cancellation of the foreign debt of the countries of the South, by encouraging, inter alia, audits of the debt. This is a major matter, for the debt is strangling the economies of these countries, forcing them to allocate almost all their resources to its service. Need one recall that numerous independent studies demonstrate that the debt has already been paid back, many times over, and that its continued existence is a political choice? In point of fact, it is a political lever used to enslave the peoples of the South.<sup>47</sup>

As an eighth measure, there is the legal frame work required for the transnational corporations, both at the national level and at the international level, in order to prevent these corporations from impeding the right to development and from violating human rights. In this regard, the question is the orientation of production (for what purpose and to whom is it intended?).<sup>48</sup>

It goes without saying that when one speaks of the right of a human being to development, one understands this in all its dimensions: physical, intellectual, moral and cultural, as has already been stated. If this chapter has dealt primarily with the economic aspect, that is because it influences all the other aspects.

## **B. Follow-up mechanism**

Since the *Declaration on the Right to Development* was adopted, more than twenty years ago, no follow-up mechanism worthy of the name has been created. However, both the Global Consultation<sup>49</sup> and the second open-ended intergovernmental working group (v. Chapter II.B.2) have made concrete proposals in this regard, and the third open-ended working group (v. Chapter II.B.3) planned to examine alternative options.

It should be pointed out that, since its fifth session (2005), the third open-ended intergovernmental working group has not returned to the subject. On the

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<sup>47</sup> In this regard, there are many statements by the CETIM, presented to the U.N. human rights bodies, on its site, as well as the recently published brochure *Let’s Launch an Inquiry into the Debt*, a manual for auditing the Third World debt, co-published by the CETIM and the CADTM, Geneva, October 2006.

<sup>48</sup> V. the CETIM file on transnational corporations. [http://www.cetim.ch/en/dossier\\_stn.php](http://www.cetim.ch/en/dossier_stn.php) .

<sup>49</sup> E/CN.4/1990/9/Rev.1, §§ 194 & 195: <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0811fcbd0b9f6bd58025667300306dea/d3b9b04274679a0e8025669d005871c7?OpenDocument>

other hand, confronted with a West that contests the legal legitimacy of the *Declaration on the Right or Development*, the G77 has called for the drafting of a legally binding instrument (convention) on this right.<sup>50</sup>

Although the U.N. General Assembly in recent years has adopted several resolutions along these lines, it is far from sure that the hoped for results will be obtained.

The most recent resolution on the right to development was adopted by the General Assembly by a vote of 134 to 53.<sup>51</sup> Under these circumstances, drafting a convention is tantamount to running an obstacle course – and the obstacles will surely be formidable. Further, there is a real risk of diluting the content of the *Declaration of the Right to Development*.

We are of the opinion that it is necessary to draft a legal instrument on the right to development. As critics point out, the *Declaration on the Right to Development* is not binding.

It seems to be forgotten that the *Declaration on the Right to Development* is a synthesis of all human rights, civil and political as well as economic, social and cultural. And it also seems to be forgotten that there is already an *International Covenant on Economic, Social and Cultural Rights*, which entered into force thirty years ago, and which is legally binding. This covenant – along with the *Covenant on Civil and Political Rights*, the *Universal Declaration of Human Rights* and the *Charter of the United Nations* – constitutes the very basis of international law regarding human rights. For this reason, the *Declaration on the Right to Development* should be considered on an equal footing with the *Universal Declaration of Human Rights*.

As for the follow-up mechanism, it is crucial for the respect, the promotion and the implementation of the right to development. The General Assembly could set up a committee, composed of high-level, independent experts, entrusted with the implementation of the right to development and with the duty of making recommendations in this area to member states and to international institutions that would be constrained to submit a periodic report to the committee.

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<sup>50</sup> V. inter alia, resolution A/HRC/RES/4/4, §2, of the Human Right Council, adopted 30 March 2007: <http://ap.ohchr.org/documents/E/HRC/resolutions/A-HRC-RES-4-4.doc> .

<sup>51</sup> The votes against were divided among the West (European Union, Australia, Canada, the United States and Canada) and eastern Europe (including those outside the European Union such as Ukraine, Moldova, Montenegro etc., with the exception of the Russian Federation), plus South Korea and Turkey (v. General Assembly resolution 61/169, adopted 19 December 2006: [http://www.ion.int/jahia/webdav/shared/shared/mainsite/policy\\_and\\_research/un/61/A\\_RES\\_61\\_169\\_EN.pdf](http://www.ion.int/jahia/webdav/shared/shared/mainsite/policy_and_research/un/61/A_RES_61_169_EN.pdf) .

## Conclusion

The *Declaration on the Right to Development* constitutes the only international instrument that reflects, in a condensed form, the broadly accepted approach of the normative content of this right.

It is also accepted that peace, development and human rights are interdependent.

As we have already stated, development is not a problem that concerns only countries designated as “developing” but is also a goal that interests the entire international community owing to the interdependence of all nations.

Thus, it is crucial that social (“grass roots”) movements and NGOs, in the North as well as in the South, in their daily struggle, call for an effective implementation of the *Declaration on the Right to Development* and oppose all attempts, on the part of governments and the private (commercial) sector, to strip it of its meaning.

They must mobilize so that the *Declaration on the Right to Development* is not consigned to oblivion and so that its implementation is not systematically impeded but supported and achieved.

## IV) ANNEXES

### Annex 1

#### Declaration on the Right to Development

Voting list of the UN General Assembly

A/RES/41/128  
December 12, 1986

#### *Voting Summary:*

Yes: 146  
No: 1  
Abstentions: 8  
Non-Voting: 4  
Total voting membership: 159

#### *Detailed Voting:*

<b>4 Non-Voting:</b>	Barbados	Cyprus
Albania	Belarus	Czechoslovakia
Dominica	Belgium	Democratic Rep. of the Congo
South Africa	Belize	Democratic Yemen
Vanuatu	Benin	Djibouti
<b>8 Abstentions:</b>	Bhutan	Dominican Republic
Denmark	Bolivia	Ecuador
Finland	Botswana	Egypt
Germany, Federal Republic of	Brazil	El Salvador
Iceland	Brunei Darussalam	Equatorial Guinea
Israel	Bulgaria	Ethiopia
Japan	Burkina Faso	Fiji
Sweden	Burundi	France
United Kingdom	Cambodia	Gabon
<b>1 No:</b>	Cameroon	Gambia
United States	Canada	German Democratic Rep.
<b>146 Yes:</b>	Cape Verde	Ghana
Afghanistan	Central African Republic	Greece
Algeria	Chad	Grenada
Angola	Chile	Guatemala
Antigua and Barbuda	China	Guinea
Argentina	Colombia	Guinea-Bissau
Australia	Comoros	Guyana
Austria	Congo	Haiti
Bahamas	Costa Rica	Honduras
Bahrain	Côte d'Ivoire	Hungary
Bangladesh	Cuba	India

Indonesia	Myanmar	Seychelles
Iran (Islamic Republic of)	Nepal	Sierra Leone
Iraq	Netherlands	Singapore
Ireland	New Zealand	Solomon Islands
Italy	Nicaragua	Somalia
Jamaica	Niger	Spain
Jordan	Nigeria	Sri Lanka
Kenya	Norway	Sudan
Kuwait	Oman	Suriname
Lao People's Democratic Republic	Pakistan	Swaziland
Lebanon	Panama	Syrian Arab Republic
Lesotho	Papua New Guinea	Thailand
Liberia	Paraguay	Togo
Libyan Arab Jamahiriya	Peru	Trinidad and Tobago
Luxembourg	Philippines	Tunisia
Madagascar	Poland	Turkey
Malawi	Portugal	Uganda
Malaysia	Qatar	Ukraine
Maldives	Romania	United Arab Emirates
Mali	Rwanda	United Republic of Tanzania
Malta	Saint Kitts and Nevis	Uruguay
Mauritania	Saint Lucia	USSR
Mauritius	Saint Vincent and the Grenadines	Venezuela (Bolivarian Rep. of)
Mexico	Samoa	Viet Nam
Mongolia	Sao Tome and Principe	Yemen
Morocco	Saudi Arabia	Yugoslavia
Mozambique	Senegal	Zambia
		Zimbabwe

## Annex 2

### **Appeal signed by 82 NGOs and social movements to the Working group on the right to development**

#### **“The Declaration on The Right to Development in Danger!”**

We the undersigned:

- Reaffirm that “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”;
- Also reaffirm that “the respect for the principle of equal rights and self-determination of peoples to self-determination”, as well as “the principle of the sovereign equality of all its Members” implies “the exercise of their inalienable right to full sovereignty over all their natural wealth and resources”;
- Demand a democratic international order, based on democratic principles, allowing for the full participation of each country to partake in economic decision-making and to define trade policy at the international level;
- Also reaffirm that, “Participation, if it is so effective in mobilizing of human and natural resources and combating inequalities, discrimination, poverty and exclusion, must involve genuine ownership or control of productive resources such as land, financial capital and technology. Participation is also the principal means by which individuals and peoples collectively determine their needs and priorities, and ensure the protection and advancement of their rights and interests”;
- Urge the independent expert to focus on implementing the right to development, on the bases of the Declaration on the right to development, in accordance with the mandate entrusted by the Commission on Human Rights, specifically to “to enhance efforts to consider and evaluate the impact of international economic and financial issues on the enjoyment of human right”;
- Urge the Working Group to focus, on one hand, on a follow-up mechanism on the implementation of the right to development and, on the other hand, on a mechanism introducing sanctions for violations to the right to development, and economic, social and cultural rights.

#### **Signatures:**

- 1) Asociación Pro Derechos Humanos de España (Spain)
- 2) Association internationale de Techniciens, Experts et Chercheurs - AITEC (France)
- 3) World Alliance of Young Men's Christian Associations - YMCA
- 4) AL SUR DEL SUR. Plataforma contra la Impunidad y por los Derechos Humanos (Spain)
- 5) Amandamajiry (Finland)
- 6) Asamblea por los Derechos Humanos del Cono Sur (Chile)
- 7) American Association of Jurists - AAJ
- 8) Action populaire contre la mondialisation - APCM
- 9) Association pour le Développement de la Sériciculture (France)
- 10) Association Sainte Catherine (France)
- 11) Attac Belgique
- 12) Attac Bienne (Switzerland)
- 13) Attac Bretagne (France)
- 14) Attac France
- 15) Attac Genève (Switzerland)
- 16) Attac Neuchâtel (Switzerland)
- 17) Attac Rhône (France)
- 18) Attac Savoie (France)

- 19) Attac Bellegarde-Pays de Gex (France)
- 20) Bangladesh Krishok Federation
- 21) Europe-Third World Centre - CETIM
- 22) Colectivo de Solidaridad por la Justicia y dignidad de los Pueblos
- 23) Comisión para la Defensa de los Derechos Humanos en Centroamerica - CODEHUCA
- 24) Comité pour l'Annulation de la Dette du Tiers-Monde - CADTM (Switzerland)
- 25) Comité pour l'Annulation de la Dette du Tiers-Monde - CADTM (France)
- 26) Comité pour les droits humains "Daniel Gillard" (Belgium)
- 27) Commission Tiers Monde de l'Eglise Catholique - COTMEC (Switzerland)
- 28) World Confederation of Labor - WCL
- 29) Coordinadora Nacional de Organizaciones Campesinas - CNOO (Guatemala)
- 30) Berne Declaration (Switzerland)
- 31) Entrée9 (France)
- 32) Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos
- 33) Fonds de Coopération au Développement - FCD - Solidarité Socialiste (Belgium)
- 34) General Arab Women Federation
- 35) Food First Information and Action Network - FIAN (France)
- 36) Fédération Internationale des Mouvements d'Adultes Ruraux Catholiques - FIMARC
- 37) Federation of Indonesia Peasant Union - FSPI
- 38) Focus on the Global South (Thailand)
- 39) Fondation Ficat Barcelone (Spain)
- 40) Forum contre le racisme (Switzerland)
- 41) Forum du tiers monde (Senegal)
- 42) France Libertés-Fondation Danielle Mitterrand
- 43) Fundacion Celestina Perez de Almada (Paraguay)
- 44) Grandmothers for Peace (Finland)
- 45) Hijos por la Identidad y la Justicia contra el Olvido y el Silencio - HIJOS (Mexico)
- 46) Instituto de Derechos Humanos Pedro Arrupe (Spain)
- 47) International Alliance of Women - IAW (Australia)
- 48) Intervida
- 49) Jeunesses alternatives (Switzerland)
- 50) KongoNetzwerk (Germany)
- 51) Women's international League for Peace and Freedom - WILPF
- 52) International League for the Rights and Liberation of Peoples - LIDLIP
- 53) Lucha contra la pobreza y protección del medio ambiente (Paraguay)
- 54) Madera Association (France)
- 55) Mouvement d'Action Paysanne - MAP (France)
- 56) Mouvement for National Land Agricultural Reform (Sri Lanka)
- 57) Indian Movement "Tupaj Amaru"
- 58) World Movement of Mothers
- 59) Movement against Racism and for Friendship among peoples - MRAP
- 60) North South XXI
- 61) OINGD CIVIMED Initiatives (France)
- 62) PACS - Instituto Políticas Alternativas para el Cono Sur (Brazil)
- 63) Pain pour le prochain (Switzerland)
- 64) Pax Romana
- 65) Plate-Forme Haïtienne de Plaidoyer pour un Développement Alternatif - PAPDA (Haïti)
- 66) Public Services International (France)
- 67) Red Solidaria por los Derechos Humanos - REDH (Uruguay)
- 68) Women's Global Network for Reproductive Rights - WGNRR (Netherlands)
- 69) Servicio Paz y Justicia - SERPAJ (France)
- 70) National Association of Teachers in Further and Higher Education - NATFHE (United Kingdom)
- 71) Survie France
- 72) Syndicat interprofessionnel de travailleuses et travailleurs - SIT (Switzerland)
- 73) SWISSAID (Switzerland)
- 74) Swiss Coalition of Development Organisations (Switzerland)
- 75) Union of Arab Jurists
- 76) Union des Syndicats Autonomes de Madagascar - USAM
- 77) Via Campesina
- 78) VIVA IQUIQUE. Asamblea por los Derechos Humanos del Cono Sur (Chile)
- 79) Women against nuclear Power (Finland)
- 80) Women for Peace (Finland)
- 81) Youth for Unity and Voluntary Action - YUVA (India)
- 82) Zone110 (Belgium)

**UNITED  
NATIONS**

**E**



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COMMISSION ON HUMAN RIGHTS  
Sixty-second session  
Item 10 of the provisional agenda

**ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Joint written statement\* submitted by the Europe Third-World Centre (CETIM), a non-governmental organization with general consultative status and the American Association of Jurists (AAJ), a non-governmental organization with special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[9 February 2006]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The fight against poverty and the millennium development goals<sup>1</sup>**

It has been almost fifteen years since the fight against poverty was put on the international political agenda. And it has been ten years now- since the UN Social Summit in Copenhagen- that it has been the subject of world consensus. During the last UN summit in New York in September 2005, the Millennium Development Goals (MDG) were solemnly upheld. By 2015 extreme poverty was to be reduced by half.

But in fact what do we see? Has cooperation for development been adapted to the new goals? Has aid to development increased? Have the international organizations of finance and commerce (The IMF, The World Bank, the WTO) changed their policies and modified their structures? Are the Millennium Goals an adequate response to the social situation of today's world? With more than half the world's population living in poverty, aren't these objectives an admission of failure after fifty years of "cooperation"? Has market liberalization kept its promise of "growth for all" or rather has it accentuated inequalities? Is the ambition of the wealthy countries up to the challenges? What has happened to social and economical development? What has happened to social, economical and cultural rights and the right to development?

These are the questions that spark off an examination of today's reality and bring us to develop ten critical arguments against MDG.

First: It must be said that the Millennium Development Goals are extremely modest, given the fact that they aim to reduce only half the number of poor people in fifteen years, thus sacrificing without consultation the other half. Here we are talking about 1,2 billion people according to the estimations- arbitrary as they may be- of the World Bank that fixes the level of poverty at less than one American dollar per day. As if the three billion people (practically half of humanity) who live with two American dollars per day cope better?<sup>2</sup> Moreover, isn't it pernicious to establish categories of poverty and extreme poverty that obscures the huge scale of world poverty?

Second: The MDG totally ignores the structural causes of poverty. If the totality of aid to development were devoted to the MDG, poverty would nevertheless continue to increase. The world context in which poverty emerges is completely ignored.

Third: The MDG were imposed from top to bottom, in spite of all the speeches in favour of "ownership" by the poor countries. These countries were not given the opportunity to gain acceptance for their own choices. This is why it is urgent that they acquire the necessary political autonomy in order to define their own priorities-such as the UNCTAD recommends.

Fourth: The Millennium Development Goals have nothing to do with development. In countries where the level of poverty is superior to 50%, it is impossible to reduce poverty without social and economic development in order to increase productive capacities, to develop a domestic market, to reduce inequalities and to produce inequalities and to introduce programs for social protection. Today the poor countries produce above all for exportation, without having the possibility to protect their production from cheap importations coming from the wealthy countries.

Fifth: The battle against poverty laid down by the Bretton Woods institutions continue to prone privatization and deregulation. These policies have yet to produce growth and even less to reduce poverty. After twenty years of the structural adjustment programme, the economic and social balance sheet is quite negative.<sup>3</sup>

Sixth: If the MDG predict the creation of "decent and productive job for the "young people", they do not speak about the right to work. And yet the Universal Declaration of Human Rights stipulates that: "everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against

unemployment (...) everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection” (art. 23). And in the International Covenant on social, economic and cultural rights, it states that: “The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” (art. 6.1)

Furthermore, the recent ILO report notes that “economic growth doesn’t generate job creation” and that the newly created jobs are well “below that could be qualified as productive and satisfying work.”<sup>4</sup>

Seventh: It has been said that the poor countries lack “good governance”. This is quite true and it is inevitable after twenty years of policies that have weakened these countries and reduced their resources. But can one really speak of “good governance” without denouncing the overall bad governance, in particular that of the G8, the WMF, the World Bank, and the most powerful rich countries in general?

Eighth: The MDG won’t be met because of lack of means. According to Jeffrey Sachs, the director of the United Nation’s millennium program, the rich countries are going to be spending between 0,45 and 0,54% of the GDP for aid to development. In spite of the objective of 0,7%, set by the UN thirty years ago, aid gets smaller each year. In 2003, the donor countries gave scarcely 0,25%. And more than 60% of this aid never reached the beneficiaries. The G7 countries only give 0,07% of the GDP to international aid.<sup>5</sup> Of course whatever the sum, financial contributions alone will not suffice to wipe out poverty if they are not accompanied by development policies that respect the wishes of the people concerned and that break with the neoliberal path on an economic level.

Ninth: The rich countries promises are not quantified whereas the obligations of poor nations are.

Tenth: The “fight against poverty” in the south hides the increase in unemployment and extreme poverty in the northern countries. The effects of neoliberal policies are being felt more and more in these countries as well. Knowing that the world’s economy is dominated by the North and that these harmful policies originate in these countries, how can we hope that they “will lead the fight” against poverty?

### **Poverty: a social problem and the political causes<sup>6</sup>**

What do the Millennium Development Goals mean to thousand of workers who have lost income because of the liberalization of the textile market? What can Niger’s population do when the price of food soars? What does the Mexican farmer do when he can longer sell his corn because of the importation of cheap corn from the United States? The MDG could help these people to learn to read and write. If, at the same time, they loose their income, there are only the statistics concerning “human” development that improve. More and more poverty is seen as a “multidimensional problem” and the question of income is forgotten. Yet the inequalities with regards to income are becoming alarming.

Is poverty a problem only concerning poor people or is it a problem for the society as a whole or the international community? Aren’t rich countries responsible for policies imposed on poor countries? The foreign debt, the WTO rules, Intellectual Property, the free flow of capital, and the deterioration of the environment, aren’t they also the cause of extreme poverty and the growing inequalities. How can on justify the fact that 10% of the world population owns almost 80% of the wealth?

Each year, the poor countries pay more than 200 billions American dollars under external debt payments to the rich countries, which means five times more than they receive themselves under the form of aid.<sup>7</sup>

### **Fewer and fewer rights, more and more philanthropy**

Bono, the voice in “the fight against poverty” in Africa, was chosen “Man of the Year” by Time magazine. Bill Gates finances the fight against AIDS. Sharon Stone buys mosquito nets in the fight against malaria. The multinational companies say they are all in favour of “social responsibility”. Private donations are on the rise.

At the same time, established rights are being dismantled. An indifference towards the respect of human rights is becoming established. We have all the necessary intellectual, legal, institutional and material means to put an end to poverty. Right must not be replaced by charity.

Given the technological progress and the enormous capacities of production that have accumulated in the past decades, poverty is, in fact, an unspeakable scandal. It could be totally eliminated while respecting in a genuine fashion the principle of sustainable development. But in order to do so, the satisfaction of the elementary human needs for each human being, in an equal fashion, must become the core of the world development policy. This objective must become the absolute priority instead of the requirements of the alleged “growth” that the transnational corporations impose on the world for their own profits.

### **Conclusion**

The Commission on Human Rights, in its resolution E/CN.4/RES/1998/25, in accordance with the Universal Declaration of Human Rights and the International Covenants on Human Rights, reminded people of the fact that “ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.”

Neither the United Nation’s proclamation of the United Nations Decade for the Elimination of poverty (1997-2006), nor the Commission on Human Rights’ nomination of an independent expert, since 1998, on matters of human rights and extreme poverty have helped to eradicate poverty. This is no surprise given the fact that the fundamental source of poverty stems from the present organization and direction of production. While this production becomes more and more abundant, it also becomes more and more unfair in the distribution of its growth. As long as there is no change in policies, the Commission on Human Rights’ assertion that: “Extreme poverty and exclusion from society constitute a violation of human dignity and that urgent national and international action is therefore required to eliminate them”<sup>8</sup> will go unheeded. It is time to put an end to the incoherency of the international system. Politics must regain control over economics and countries must take on their responsibilities. The latter cannot, on one hand, pretend to support human rights while, on the other hand, implement economic policies that go against these same rights.

#### **Notes:**

- 1 This declaration was drawn up with Ms Francine Mestrum, PhD in social sciences at the Université Libre de Bruxelles.
- 2 *La mondialisation, et après... Quel développement au 21ème siècle ?* Peter Niggli, published by La Communauté de travail, Bern, November 2004.
- 3 Weisbrot, M and al. “The Scoreboard on Development : 25 years of diminished progress”, Washington, Center for Economic and Policy Research, September 2005.
- 4 See ILO press release “Globalization fails to create new quality jobs and to reduce poverty” December 9th 2005, <http://www-ilo-mirror.cornell.edu/public/french/bureau/in/pr/2005/48.htm>.

- 5 Action Aid, Real Aid. An Agenda for Making Aid Work ([www.actionaid.org](http://www.actionaid.org)).
- 6 Refer to the written statement of the CETIM and the AAJ that was presented at the 61nd session of the Commission on Human Rights, E/CN.4/2005/NGO/281 (see [www.cetim.ch](http://www.cetim.ch)).
- 7 Cf. *La finance contre les peuples. La bourse ou la vie*, Eric Toussaint, published by CADTM, CETIM and SYLLEPSE, February 2004.
- 8 See Resolution E/CN.4/RES/1998/25.

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**E**



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**COMMISSION ON HUMAN RIGHTS  
Sixtieth session  
Item 17 of the provisional agenda**

**PROMOTION AND PROTECTION OF HUMAN RIGHTS**

**Written statement\* submitted by the Europe Third-World Centre,  
a non-governmental organization in general consultative status and the American  
Association of Jurists (AAJ), a non-governmental organization in special  
consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2004]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

# Good Governance against Good Government?<sup>1</sup>

## Good Governance: Conceptual Vagueness, Ideological Clearness

1. Since the beginning of the 1990s, the major international organizations, first and foremost among them International Monetary Fund (IMF) and the World Bank, have been lavishing upon their member countries recommendations for “good governance”. However, the definitions of this term and, along with them, its substance, have varied noticeably from one institution to another, preventing the formulation of a precise legal definition – particularly since governance can also be global, corporate... Within the framework of its loans and “oversight” operations, the IMF seeks to promote good governance covering “all aspects of the conduct of public affairs”. Applicable in countries benefiting from its technical aid, and closely associated with its anti-corruption fight, the IMF code of good governance aims to make economic policy decisions more transparent, to make available a maximum of information regarding public finances, to standardize audit procedures and, more recently, to “combat the financing of terrorism”<sup>2</sup>. According to the World Bank, the governance of “client countries” should “go beyond the dysfunctioning of the public sector (the ‘symptom’) to help these countries adopt the reforms” designed to improve public resource allocation mechanisms, “the institutional development of state, the processes of formulation, choice and implementation of policies, and the relations between citizens and their government”. If the UNDP links good governance to sustainable human development, the Asian Development Bank emphasizes private sector participation, whereas the Inter-American Development Bank stresses the strengthening of civil society, the OECD accountability, transparency, efficiency and effectiveness, economic forecasting and the primacy of law, the EBRD human rights and democratic principles, etc. In spite of the vagueness of the concept and of the normative judgement criteria involved, the goals formulated by these organizations are quite clear and convergent: what is at stake is the shaping of states’ policies to create those institutional environments most favorable to the opening up of the countries of the South to globalized financial markets.

## Good Governance vs. Good Government

2. The official line in this matter is, of course, that of the IMF. For its purposes, good governance consists essentially of “deregulating the exchange, trade and price systems”, of “limiting ad hoc decision making and preferential treatment of individuals and organizations” and of “eliminating direct credit allocation” by the state. It is clear that reaching these is inseparable from pursuing neo-liberal economic policies and the social model that is the ultimate purpose of their implementation. This strategy, which has been imposed since the beginning of the 1980s upon the majority of the countries of the South (structural adjustment plans, deregulations, privatizations, free movement of capital, etc.), has brought in its wake, in every domain and on every continent, the proof of its failure. As a reflection of the hegemonic power of finance – to wit of the major owners of capital, especially United States capital – neo-liberalism is not a development model, but a domination model. Its social disasters, its human dramas are too well known to need to be cited. Its new ideological anti- state dogma, good governance, can thus only be seen as an inversion of *good government*. In any event, the aim is not the development of democratic participation of individuals in decision-making processes, nor the respect of their right to development, but state-sponsored market deregulation, in other words re regulation by the brute forces of capital on a world-wide scale.

3. Confronted with economic neo-liberalism's impossibility of managing the crisis of the world system and with the refusal of the international organizations to acknowledge the urgency of finding an alternative that might impose upon capital's dynamic of expansion limits independent of its drive for maximization of profit, good governance can only intensify its criticism of "the state failures". Civil servants are not only accused of "rent seeking"; what is henceforth called into question is their own capacity to manage public affairs, especially in the indebted countries of the South, and to build and sustain "decent" institutions –not so much for people, but for capital. Nevertheless, the coincidence of moralizing rhetoric about the *responsibility* of states (to which, alone, all errors are imputed) and discourses about the *irresponsibility* of their agents (when it is not their basic decency that is being questioned) is nothing other than a *legitimizing* of the ultra-liberal option of abandoning the regalian prerogatives of state, which in some cases goes so far as to delegate national defense, to substitute a foreign currency for the national one, or privatize the tax collection...

4. Whence this striking paradox, inherent in good governance, of calls going out from the international organizations to national governments that these latter adopt, indeed "appropriate", neo-liberal economic policies imposed from without while the globalized financial markets dispossess these states of their sovereignty and insinuate themselves into the countries' ownership structure of capital. Managing the state apparatus of the South directly from the centre of the world system, while neutralizing their state power by stripping them of all prerogatives and reducing to a minimum their margins of manoeuvre, would this not be, in the final reckoning, the secret of *ideal governance*? What democracy could public authorities pretend to when they limit the exercise of national sovereignty to the opening up of and liberalization of markets, to the payment of dividends on foreign investment, and to the repayment of the foreign debt?

5. In such circumstances, we can only be disquieted by the "public-private partnerships for development" initiatives launched by the Secretary General of the United Nations, and in particular by the setting up of the Global Compact.<sup>3</sup> This moral pact concluded between the United Nations and big business intends, officially, "to give to the globalized market a human face" by taking care that a core of "shared values and principles" relative to human rights, labour legislation and the protection of the environment be observed by transnational corporations. In reality, this all too risky deal allows these firms to make United Nations institutions dependent on corporate financing and to use the public and universal UN "label" for their own private purposes.<sup>4</sup>

### **The IMF: *Bad Governance Model*?**

6. The IMF's insistence on good governance, which has become one of the conditions of aid to countries in the South and of relief from their foreign debt, reveals the progressively greater politicization of its interventions and the drift of its missions into areas beyond those encompassed in its mandate. Its oversight of macro-economic policies and of the private-sector-activities environment, confidence in which is supposed to constitute the *sine qua non* of sustained growth, applies henceforth to "all aspects" of all state institutions, including the nature of the political regime, which is required to be as transparent as possible. The question that one must then ask is whether this body enforces with equal single-mindedness, regarding its own *modus operandi*, the standards it imposes upon the South. If the IMF is to be believed, the answer would be affirmative: guidelines are in place to assure ethical behaviour and to prevent the corruption of its personnel, a professional ethics counsellor is on the scene, and so on...

Nonetheless, numerous facts converge to suggest that the IMF is today a model of *bad governance*.

7. Democratic and impartial institutions, the diffusion of information to the public, transparency in decision-making procedures, the participation of all actors, free and fair elections, efficient management of resources, expert competence in assessing situations, accountability, integrity, respect for human rights, etc. should be some of the hallmarks of good governance. How does the IMF measure up to this?

- a) In this institution, where the weight of a member is a function of its monetary contributions, the United States alone disposes of the right of veto over all major decisions.<sup>5</sup>
- b) In spite of recent progress, still limited in scope, the availability of documents drafted by the IMF is subjected to considerable restrictions.
- c) The negotiations that it is involved with remain obscure and, for the most part, shrouded in total secrecy.
- d) The scope of its interlocutors is extremely limited (mainly finance ministers and central bank authorities), although it has been slightly broadened in recent years (industry heads, for example), but no attempt is ever made to involve or consult through any democratic process the people affected by its policies.
- e) As consensus is the usual method of decision-making, only exceptionally are programs submitted to a vote.
- f) The structural adjustment policies have turned out to be totally ineffective in resolving domestic and foreign imbalances and have even contributed to causing and propagating financial crises.
- g) Its experts are subjected to no evaluation procedure regarding the general pertinence of their recommendations, much less regarding the appropriateness of such recommendations to the needs and expectations of the people they affect.
- h) The very quality of the work done by the Fund, compared with what is available in academic literature, is questionable.
- i) The anti-corruption rhetoric does not prevent the financing – and with full knowledge of the results – of regimes that are notoriously corrupt.
- j) Many of the countries that receive its financial aid have been criticized for their systematic violation of human rights.

### **The Necessity of Transformations for Development and Democracy**

8. Our purpose here is not only to aim our criticism at the dominant body of the international financial institutions –whose reform is demanded from all quarters and amounts to basic common sense. It is, also and especially, to stress that the failures of the IMF in its support of the interests of creditors and transnationals bespeaks the failure of global governance imposed by the G7, under the leadership of the United States, as a way of getting the world system out of its crisis. The hallmarks of good governance will be sought for in vain as long as the structural obstacles that prevent the vast majority of the countries of the world from exercising their right to development and to democracy have not been removed. Today more than ever it is obvious that economic neo-liberalism must be abandoned, that the debt problem must be solved, that the dominant role of financial speculation must be ended and that the activities of the transnationals, which are so much the cause of the current system of unequal exchanges, must be checked.

9. What, then, are the indispensable transformations that must be carried out to construct a democratic world, assuring the peoples of the world better living conditions and an effective participation in the making and implementation of the decisions that

affect their lives? Any discussion of this challenge must take into account the following points:

- a) modification of the rules of market access and of financial and monetary systems, which implies a total rethinking and remaking of the IMF, the World Bank and the WTO;
- b) the creation of a system of taxation and income redistribution on a world-wide scale, both more ambitious and more coherent than a *Tobin tax*;
- c) an end of the regulation of the world system *by war*, with demilitarization of the planet and peace keeping;
- d) the reinforcement and democratization of the UN, conciliating the rights of individuals and peoples, political and social rights, universalism and cultural diversity;
- e) collective management of natural resources, to be used in the service of all peoples, and respect for the environment.

10. Such are, in our opinion, the *sine qua non* requisites of dynamic civil societies of sovereign and *authentically democratic* states, of autonomous regionalization reinforcing the positions of disadvantaged countries within the world system, but also the requisites of the realization of the purpose of human rights, in their individual as well as in their collective dimension: food, health, lodging, education, security rule of law, justice, equality...

**Notes:**

<sup>1</sup> Statement written with the collaboration of Mr. Rémy Herrera, researcher for the National Centre for Scientific Research (CNRS), France.

<sup>2</sup> IMF, *Good Governance The IMF Role*, Washington, D.C., 2003.

<sup>3</sup> Speech by Kofi Annan at Davos, in 1999.

<sup>4</sup> Cf. *Building on Quicksand*, CETIM, Declaration of Berne and IBFAN-GIFA, Geneva, October 2003.

<sup>5</sup> The dependence of the IMF on the United States Department of the Treasury is no longer a secret.