

PART THREE

Cooperating for the right to development

global partnership

Introduction

The previous parts established the normative content and guiding principles of the right to development. These remain abstract unless and until they inform the practice of international relations and domestic policy. The purpose of this part is to examine, from the right to development perspective, key partnerships through which development is supposed to take place and to ask whether and how the norms and principles of the right to development have any impact upon them.

The eight chapters in this part explore whether and how the right to development has had an impact on international cooperation to reach development goals. These chapters reflect the work commissioned by OHCHR for the task force in order to comply with the mandate, given to it by the Working Group on the Right to Development in 2005, to focus on Millennium Development Goal 8, that is, on a global partnership for development, and to suggest criteria for its periodic evaluation with the aim of improving the effectiveness of global partnerships with regard to the realization of the right to development (E/CN.4/2005/25, para. 54 (i)). Among the most significant factors for successful global partnership are: cooperation to realize the Millennium Development Goals; aid effectiveness; trade; debt sustainability; access to medicines; and climate change.

The first of these studies, presented in chapter 15, examines whether and to what extent the global partnership as understood in goal 8 contributes to the right to development. The author, Sakiko Fukuda-Parr examines in detail the overall approach

of goal 8 as a potential tool for filling the gap between principle and policy. Goal 8 lists trade, aid, debt relief and technology transfer as the policy areas of required action, which she considers significant for the right to development because this goal involves an internationally agreed mechanism of review and accountability. Fukuda-Parr finds that goal 8 indicators and targets set weak standards for accountability and fail to address adequately key human rights principles regarding resources, the international policy environment and systemic asymmetries in global decision-making processes. She concludes with a recommendation that the international community revisit goal 8 targets and indicators from a right to development perspective, shifting international cooperation from charity to solidarity.

An example of South-South partnership is presented in chapter 16 on the African Peer Review Mechanism (APRM) and its focus on the rule of law and good governance, which are both principles and outcomes of the right to development. Bronwen Manby examines the nature and functioning of the APRM in the context of the New Partnership for Africa's Development (NEPAD). Specifically, she explores whether and how this innovative mechanism will live up to its promise as a tool for the improvement of governance and the realization of the right to development in African States.

In chapter 17, Roberto Bissio examines the Paris Declaration on Aid Effectiveness from a right to development perspective. He is critical of the Paris Declaration insofar as it "can work in practice against

the right to development and erode national democratic processes". Even after the explicit mention of human rights in the Accra Agenda for Action, the targets still make reference to preconditions that developing countries have to meet, and human rights are not part of the scope of the official review, monitoring and evaluation. Moreover, many of them "could result in substantial erosion of the right to development of 'partner' countries". Echoing the civil society call for "development effectiveness" to replace "aid effectiveness", he joins with civil society in advocating that such effectiveness be strengthened "through practice based on human rights standards".

Moving from aid to trade, Robert Howse considers in chapter 18 the world trading system and its complementarity with the international human rights regime, before examining how the right to development could be mainstreamed into legal and institutional practice at the World Trade Organization (WTO). Specifically, he suggests how this right might be advanced through the Trade Policy Review Mechanism and technical assistance provided to assist developing countries in taking advantage of WTO treaties. While the dispute settlement procedure has not taken advantage of the potential of this right in interpreting WTO law, Howse urges reform of the epistemic community to give greater attention to the normative value of the right to development in WTO negotiations.

A specific example for global trade, the Cotonou Agreement between the European Union and African, Caribbean and Pacific Countries and economic partnership agreements (EPAs), is studied in chapter 19 by James Thuo Gathii. After analysing the right to development, he examines the five pillars of the Cotonou Agreement with special reference to the right to development and the obstacles to the incorporation of human rights concerns within the Agreement and EPA negotiations. Finding potential areas of congruence and synergy between the Cotonou Agreement and the right to development, he proposes specific steps to bring this right into the operational framework of the Agreement.

In chapter 20, Boris Gamarra, Malvina Pollock, Dörte Dömeland and Carlos A. Primo Braga address "Debt relief and sustainability", drawing on their own work on the subject and a 2009 World Bank conference and publication presented to the task force in January 2010 as part of its consideration of target 8.D under goal 8. In this chapter, the authors review the evolution of debt relief from short-term debt-restructuring operations to outright debt forgive-

ness and describe the range of debt-relief measures adopted by creditors. They then analyse the extent to which debt relief has alleviated the debt burden of low-income countries and how the global financial crisis underscores the importance of strengthening public debt-management capacity and institutions. They conclude by stressing the challenge of translating debt relief into sustainable growth and avoiding the temptation to over-borrow, and the potential benefits for the right to development of better debt management.

The Millennium Development Goals also focus on debt by calling on the international community to "deal comprehensively with developing countries' debt". Chapter 21, by Cephias Lumina, casts a critical eye on the role of international financial institutions from the right to development perspective. He expresses concern over the evidence indicating "that in many of the poorest countries debt repayment is often carried out at the expense of basic human rights, including the rights to food, health, education, adequate housing and work". After reviewing the global debt crisis and the impact of debt servicing on the realization of human rights, he explains how conditions linked to debt relief undermine country ownership of national development strategies and the shortcomings of current creditor-driven responses to the debt crisis. He proposes a rights-based approach to debt sustainability, underscores the need for the principle of shared responsibility of creditors and debtors, and calls for a "fundamental restructuring of the international economic system".

Goal 8 includes target 8.E: "In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries." In chapter 22, Lisa Forman addresses the role of the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property and the Global Strategy and Plan of Action from the perspective of goal 8 and the right to development. She finds that they may have "the potential to significantly advance access to medicines, as well as realization of the right to development and associated human rights to health, life and the benefits of scientific progress", in spite of some shortcomings.

The final chapter in this part, chapter 23, relates to target 8.F of goal 8: "In cooperation with the private sector, make available benefits of new technologies, especially information and communications". Marcos Orellana in his chapter on "Climate change, sustainable development and the clean development mechanism", addresses sustainable development,

which has been explicitly incorporated as one of the objectives of the clean development mechanism (CDM), established by the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC). He considers that the right to development “expresses a common ethos, an articulating principle and a transcendent goal for our global society if it is to survive and thrive in a climate-constrained planet”. After examining climate change, the related Millennium Development Goals and the role of international cooperation, in particular CDM, he examines the problems of UNFCCC in terms of governance practices, environmental integrity and contribution to sustainable development. He concludes that the right to development is central to addressing the climate change crisis effectively because of its value to development models, its potential to “unlock UNFCCC

negotiations by underscoring the need for a technology leap in the global and local economies”, and its value as “the vital moral compass to guide the economic transformation required to effectively address climate change and achieve sustainable development through the integration of economic, environmental and human rights issues”.

Taken together, these nine chapters underscore the challenges facing international cooperation in mobilizing resources and altering priorities in order to make the right to development an integral component of development practice. The incentives for action and the tools for measuring progress to assist Governments, civil society and international institutions to move from affirmations of principles to development practice are addressed in Part Four.