Towards operational criteria and a monitoring framework

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I. Overview

This chapter seeks to critically examine the work undertaken by the Human Rights Council's Working Group on the Right to Development (Working Group) and its high-level task force on the implementation of the right to development (task force) in operationalizing the right. More specifically, it analyses the right to development criteria outlined by the task force at its third session, in 2007 (see A/HRC/4/WG.2/TF/2) for its conceptual adequacy and the ease of operational practice, with a view to promoting the implementation of the right. In presenting the analysis, the chapter builds on an earlier paper on this subject (A/HRC/12/WG.2/TF/CRP.6) presented by the author to the task force at its fifth session, in 2009, and discussions at that meeting (see A/HRC/12/WG.2/TF/2 and Corr.1). It also draws on parallel work undertaken by the author for the Office of the United Nations High Commissioner for Human Rights (OHCHR) in developing the framework to identify indicators for promoting and monitoring the implementation of human rights, in general.[1]

The criteria suggested by the task force were developed in the context of an analysis of Millennium Development Goal 8 on the global partnership for development from a right to development perspective. These were subsequently reviewed by the task force at its fourth session, in 2008 (see A/HRC/8/WG.2/TF/2) with a view to making them more comprehensive in reflecting the scope of the right as elaborated in the Declaration on the Right to Development. While agreeing on the criteria, the Working Group was of the view that a pilot assessment of some selected global development partnerships for their relevance in promoting the implementation of the right to development would help in the review and progressive refinement of the suggested criteria. The implicit assumption being that such an exercise would contribute to clarifying the content and the policy focus required in implementing the right to development for improving universal enjoyment of rights and human well-being. Some results from this exercise have been presented in this book. It appears that the exercise may have fallen short in enhancing the much-needed unique operational perspective on the right to development that could appeal equally to the human rights community as well as to development practitioners.

The present chapter suggests that in order to address this concern for clarifying the content of the right to development, through the selection and modification of its operative criteria, it is important to have a comprehensive set that go beyond the suggestions

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[1] See OHCHR, *Human Rights Indicators: A Guide to Implementation and Measurement* (HR/PUB/12/5); see also chapter 24 of the present publication.

made at the fourth session of the task force and are explicitly anchored in the normative basis of the right.[2] It is also important to highlight the potential relevance of the right to development to extant governance and development practices in furthering the realization of human rights. Such an approach could help in developing a set of operational tools (including indicators), guidelines or elements of an international legal instrument on the right and support a periodic assessment of its progress.

Several concerns need to be addressed in this context. First of all, it is important to outline a framework that lays down the logic of the selection of right to development criteria. In the absence of such a framework, any exercise that seeks to put together these criteria could be reduced to a random listing of different formulations, creating ambiguity rather than clarity on the operational content of the right. Secondly, it is equally important to ensure that the elaborated criteria are either manifestly operational or are supported by tools (indicators), quantitative as well as qualitative, that make explicit the practical dimension of the selected criteria. A third concern is to ensure a reasonably exhaustive reflection of the normative basis of the right in the elaborated criteria. This is particularly relevant if the criteria under review have to clarify the content of the right to development and help in taking forward the measures seen as being useful to further its implementation. Moreover, among the elaborated criteria, some would be more relevant for implementing the right at the international level, such as those for assessing global partnerships for development from a right to development perspective. At the same time, there would be other criteria that could better reflect the progress in country strategies for the implementation of the right. A disproportionate focus on one or the other set of criteria could end up compromising the relevance of the right in informing development and governance processes for realizing human rights. Indeed, in a globalized world the national and the international dimensions of the right cannot be viewed in isolation from each other.

This chapter addresses some of these concerns by putting together a conceptual and methodological approach to support a comprehensive framework for operationalizing the right to development. With that objective in mind, section II revisits the notion of human rights and the right to development as laid out in the Declaration and outlines the OHCHR indicator framework for operationalizing human rights standards and obligations. Section III analyses the right to development normative framework and its interpretation by the human rights mechanisms, including the Working Group and the task force, the work undertaken by the first Independent Expert on the right to development and some other relevant literature. This helps in pinning down the essential elements or the content of the right for anchoring the criteria. Section IV uses the articulated normative content of the right from the earlier section to review and modify the task force criteria. It uses the revised criteria to identify the requisite tools, quantitative as well as qualitative, that help make them more operational. This approach places the operationalization of the right to development in the larger context of the work being undertaken by OHCHR, at the request of the treaty bodies, to identify indicators for promoting and monitoring the implementation of human rights. The concluding section V outlines some suggestions that could help in setting the future agenda for the work on the right to development in the United Nations human rights mechanisms.

II. Human rights and the notion of the right to development

Human rights are universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity.[3] Further, human rights are inalienable, interrelated, interdependent and indivisible.[4] The underlying feature of any right is that it

[2] This suggestion was considered and adopted by the task force when the author made a presentation at its fifth session in April 2009. The task force went on to adopt the framework that the author had outlined in document A/HRC/12/WG.2/TF/CRP.6. The present chapter, a revision of that paper, besides explaining the rationale for the framework adopted by the task force puts some related issues in a larger perspective to help guide future work on furthering the implementation of the right to development. In certain respects this chapter goes beyond the original suggestions presented to the task force.

[3] See, for instance, OHCHR, *Frequently Asked Questions on a Human Rights Based Approach to Development Cooperation* (New York and Geneva, 2006), p. 1.

[4] Irrespective of the nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status, human rights are inherent to all human beings. Moreover, human rights are inalienable and are to be enjoyed universally. They cannot be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law, or certain fundamental human freedoms may be temporarily suspended in times of national emergencies. Further, human rights, whether they are civil and political rights such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education; or collective rights, such as the rights to development and self-determination, are all interrelated, interdependent and indivisible. Interrelatedness of human rights implies that an improvement in the realization of any one human right is a function of realization of all, or some, or at least one, of the other human rights. Any two rights are interdependent if the level of enjoyment of one is dependent on the level of realization of the other. The notion of indivisibility of human rights requires that improvement in the enjoyment of any human right cannot take place at the expense of violation or retrogression in the outcomes associated with the realization of any other right.

identifies right holders who, by virtue of being human, have a claim over certain entitlements; and there are duty bearers, who are legally bound to respect, protect and fulfil the entitlements associated with those claims.[5] Human rights law obliges the State and other duty bearers to do certain things and prevent themselves and others from taking such actions that infringe on or compromise the fundamental freedoms and rights of people. In invoking rights, it is not only important to identify the entitlements, but it is equally important to specify the agents who have the duty to bring about the enjoyment of those entitlements.[6] Thus, there are rights of individuals and peoples (group rights such as the right to development or the rights of indigenous peoples) and there are correlate obligations, primarily for States—individually and collectively—and their institutions.[7]

It is universally accepted that these entitlements encompass the complete scope of human engagement from its economic, social and cultural aspects to the civil and political dimensions of an individual's life. Standards have been established and their normative basis elaborated in various instruments including the Universal Declaration of Human Rights and the core international human rights treaties.[8] However, there is not as much clarity and agreement on what the responsibilities and obligations of the duty bearer are and, more specifically, how they have to be assessed. Indeed, in real life it is difficult to identify the policies and the measures that could uniquely define these obligations. While a loose causal link can easily be identified, it is almost impossible to establish a one-to-one correspondence between a policy instrument and the extent of its impact on a desirable human outcome. It is more likely that a desired social outcome is influenced by more than one policy measure and, at the same time, a policy measure may have an impact on multiple outcomes.

In most instances, one has to be satisfied with the identification of a set of policies and the corresponding instruments that correlate with a set of desired social outcomes. In the case of the right to development, the problem is further compounded by the fact that unlike other human rights it derives its legitimacy from the Declaration on the Right to Development—an all- encompassing "political document"—and not a legally binding instrument. For any legally binding instrument, even when the link between measures expected of States parties in fulfilling their obligations and the corresponding desired social outcomes is not all that obvious, such measures are likely to enjoy better acceptance and commitment by the duty bearers to the extent that they are seen as an extension of an international treaty. Moreover, from the perspective of a development practitioner, the elaborated normative standards on rights, as well as the narrative on correlate duties, suffer from a certain lack of concreteness that makes it difficult to identify tools and a methodology that establish the added value of human rights concepts in development policy.

The human rights framework also identifies certain cross-cutting norms or principles such as participation, empowerment, non-discrimination and equality, transparency and accountability, including the rule of law and good governance, at the national and international levels, which are expected to guide the duty bearers in the conduct of the process to secure human rights.[9] In the event of violation or denial of rights, the approach emphasizes availability of appropriate means to seek redress.

A. Right to development

The Declaration on the Right to Development, adopted by the General Assembly in 1986,[10] in

[5] In the human rights literature, these are referred to as the "Maastricht principles", which define the scope of State obligations, generally in the national context, but which could well be applied to describe the nature of State obligations at the international level (Maastricht Guidelines on Violations of Economic, Social and Cultural Rights of 1997 (see E/C.12/2000/13)).

[6] See, for instance, Amartya Sen, *Development as Freedom* (Oxford, Oxford University Press, 1999), pp. 227-231 for a development perspective on human rights.

[7] Further, these obligations, as Sen (ibid.) points out, could be "perfect obligations" or "imperfect obligations". The former relate to immediate obligations (principally to civil and political rights) such as the obligation to respect (States must not deny enjoyment of a right) or the obligation to protect (States must prevent private actors/third parties from violating a right), where the method for meeting the obligation by the duty bearer is known and well defined and can be enforced through a judicial process. In the latter case, it may be difficult to accurately identify the action required by the duty bearer to meet its obligations. It typically includes the obligation to promote (creating the policy framework to support the enjoyment of rights) and to provide (allocation of public resources to ensure that people realize and enjoy their rights). The claims in this case relate to implementation of the duty bearer's commitments to pursue certain policies for achieving a set of desired results. Often, the imperfect obligations are not justiciable (they relate principally to economic and social rights) and, due to resource constraints, the duty bearer may take a progressive approach in fulfilling them. However, this distinction is not overtly supported in contemporary human rights discourse, where the emphasis is on indivisibility and a symmetric treatment of all human rights.

[8] Alternatively, the International Bill of Human Rights, which mainly comprises the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. The other instruments designed to address the situation of special groups and regions in the promotion and protection of human rights are the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[9] These cross-cutting norms or principles have also been reiterated by the Working Group at its various sessions as being relevant for the implementation of the right to development.

[10] See also resolution 41/133 on the right to development.

its article 1 states that "[t]he 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". Such a broad-based notion of development in terms of economic, social, cultural and political advancement directed at the full realization of all human rights and fundamental freedoms transformed the right to development from a mere claim for a supportive international economic order, rooted in the period of decolonization, to a multifaceted and a cross-cutting human right.[11]

It is important to recognize a salient feature of the right, which makes it somewhat distinct from other substantive and procedural human rights,[12] as well as from the more commonly used concept and terminology of rights-based approaches (to development).[13] This relates to the intrinsic complementarity between the national and the international dimension of the right, with a relative emphasis on the latter. It can be explained partly by the historical moorings of the right to development in the decolonization era and partly by the very nature of the right as an integrated framework of rights, or as an "umbrella right". The international human rights standards recognize the universality of State obligations—individually and collectively—and the importance of international cooperation in the realization of rights. However, when we consider a human right in isolation from other rights it is easy to downplay the importance of international cooperation and the obligations of the international community in realizing that right. In such a case it can always be argued that if a particular right has to be realized, all that the State has to do is to realign its public allocations and policy emphasis in favour of that right. But this argument does not carry weight when we consider the right to development, where the co-realization of the constituent rights may require international support and cooperation; hence the importance of the international dimension in the normative basis and in the implementation of the right to development.

The notion of the right to development as it has evolved in the international human rights discourse and in the work of the United Nations human rights bodies can be seen as bringing a new approach to development thinking, policymaking and, in particular, to development cooperation. Indeed, unlike other human rights, the right to development by its very definition may have a more significant contribution to make in the conduct of international cooperation for the universal realization of all human rights. Before analysing the normative standard on the right to development to pin down the attributes or the content of the right, it is useful to take note of the OHCHR framework for identifying indicators in operationalizing human rights standards.

B. Operationalizing human rights: the OHCHR framework on indicators

The complex and evolving nature of human rights standards makes it necessary to have a well-structured framework to identify criteria and their operative indicators to assist in interpreting the normative standards, promoting implementation and assessing the duty bearer's compliance. The framework adopted by OHCHR builds a common approach to identifying indicators for promoting and monitoring civil and political rights, as well as economic, social and cultural rights. In ensuring that the framework is workable, it focuses on using information and data sets that are commonly available and based on standardized data-generating mechanisms, which most States parties would find acceptable and administratively feasible to compile and follow.[14] The framework involves a two-part approach that includes identifying the attributes of a human right, followed by a cluster of indicators that unpack specific aspects of implementing the standard associated with that right.

[11] In its early conception in the 1970s and early 1980s, within the confines of the international arena, the right to development was seen as a right of communities, States and peoples subjugated by colonial domination and exploitation. It was a collective right whose claim holders were the juridical persons at various levels of groupings such as States, regions, provinces, municipalities or towns and the duty holders were the State, the developed countries and the international community. It was not until later that the right was also conceptualized in municipal law in addition to international law. See Rajeev Malhotra, "Right to development: where are we today?", in *Reflections on the Right to Development*, Arjun K. Sengupta and others, eds., Centre for Development and Human Rights (New Delhi, Sage Publications, 2005) for further details.

[12] It is sometimes useful to make a distinction between a substantive human right such as the right to education (Universal Declaration, art. 26) or the right to life (ibid., art. 3) and a procedural right such as the right to a fair trial (ibid., arts. 10-11).

[13] These concepts have come into vogue with the United Nations system-wide objective of mainstreaming human rights in the work of all agencies and programmes and are often defined in a broad or even loose manner. It is useful to remember that unlike the rights-based approaches which essentially apply the human rights standards and the cross-cutting norms to address issues of development and social change, the right to development is a fundamental human right, backed by customary international law, and has all the features of a right, including right holders and the duty bearers. It does not enjoy an international legal status, in the sense that there is no international treaty explicitly recognizing the right, even though its constitutive elements, viz. economic, social and cultural rights, as well as civil and political rights, represent internationally recognized human rights law. While the right continues to be sustained by the Declaration, for legal support at the international level it also draws on references in a number of international instruments, including declarations and conventions. Among these an important one is the United Nations Millennium Declaration (General Assembly resolution 55/2).

[14] See OHCHR, *Human Rights Indicators* (footnote 1).

The enumeration of human right standards in the treaty provisions and their elaboration by human rights mechanisms, including the United Nations treaty bodies, may remain at a general level. Many human rights provisions overlap and are not quite amenable to a direct identification of appropriate criteria and corresponding indicator(s). As a starting point, it is therefore important that the narrative on the normative standard of a human right is transcribed into a limited number of characteristic attributes of that right. By identifying the attributes of a right, the process of selecting and developing suitable criteria or clusters of operative indicators is facilitated as one arrives at a categorization that is clear, concrete and, perhaps, even "tangible" in facilitating the selection of criteria and the indicators. Indeed, the notion of attributes of a right helps in concretizing the content of a right and makes explicit the link between identified criteria and indicators of a right on one hand, and the normative standards of that right on the other.

There are at least two considerations that guide the process of identifying the attributes of a human right. First, to the extent feasible the attributes should not overlap in their scope. In other words, in reflecting the normative content of a human right standard, the selected attributes should be mutually exclusive. Second, to the extent feasible attributes should be based on an exhaustive reading of the standard so that no part of the standard is overlooked either in the choice of the attributes of a human right or in identifying the criteria or indicators for that right.[15] Ultimately, the choice of attributes of a human right has to be such that collectively they should reflect the essence of the normative content of that right and their articulation should help in the formulation of criteria and in the identification of the relevant indicators.

Having identified the attributes of a human right, the next step is to have a consistent approach to articulating criteria or sub-criteria and identifying the corresponding indicators for those attributes and the relevant cross-cutting norms. This step requires considering different kinds of indicator types to help capture the different facets of human rights implementation.

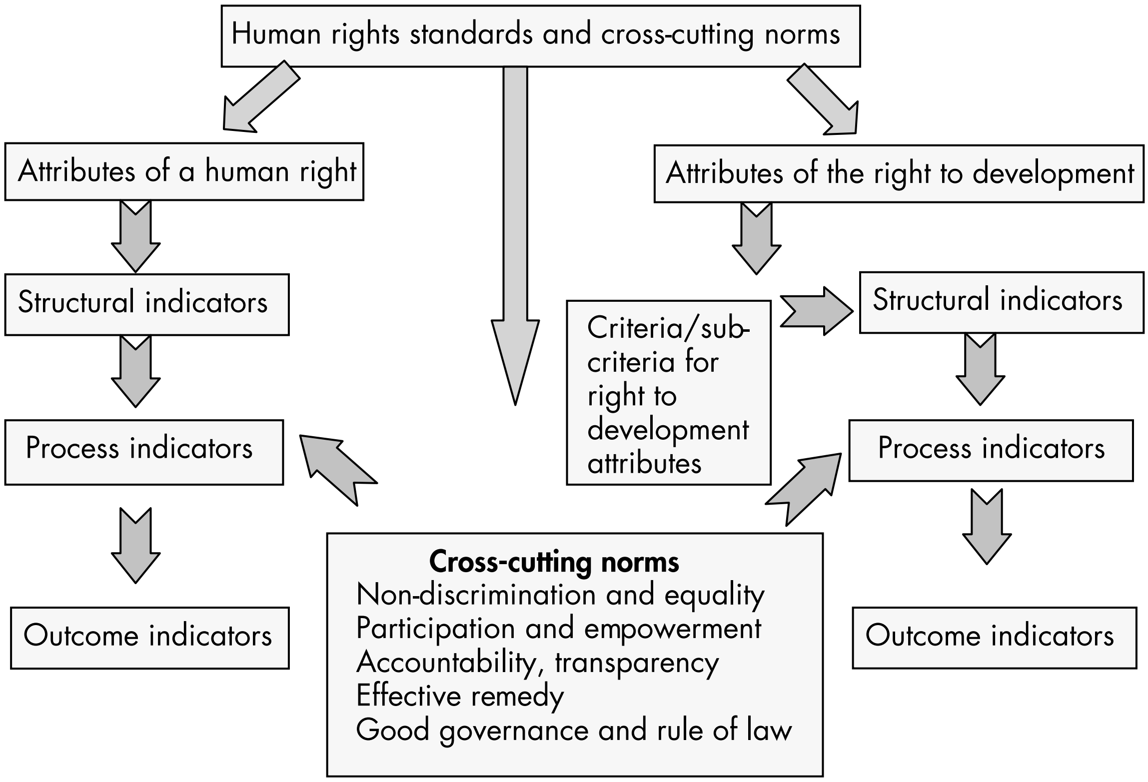
Realization of human rights requires continuous efforts on the part of the concerned duty bearers to protect and promote rights. It also requires the right holders to raise claims to those rights and to have access to redress when those claims are violated or denied. In monitoring the implementation of human rights it is therefore vital to assess, at a given point of time, the identified outcomes that correspond to the realization of human rights. It is equally vital to assess the conduct of the processes underpinning those outcomes for conformity to relevant human rights standards and cross-cutting norms.[16] Further, there is also a case for measuring the acceptance and the commitment of the States who are party to human rights treaties in meeting their human rights obligations. Thus, in order to measure all these aspects (the intent and commitments of a duty bearer to human rights standards, the efforts that are required to make those commitments a reality and the results of those efforts in terms of enjoyment of rights over time), the OHCHR framework uses a configuration of indicators that have been categorized as structural, process and outcome indicators. Each of these categories of indicators, through their respective information sets, brings to the fore an assessment of the steps taken by States in meeting their human rights obligations, be they to respect, protect or fulfil a right. The use of such a configuration of indicators not only simplifies the process of selection and development of indicators for human rights, but also encourages the use of contextually relevant, available and potentially quantifiable information for populating the chosen indicators.

The following figure shows how the OHCHR framework for identifying indicators has been used to arrive at the attributes of the right to development, the criteria and the sub-criteria and the corresponding indicators for promoting the implementation of the right. The nature of the right to development as a composite of all human rights makes it necessary to modify the framework for identifying the indicators. The human rights cross-cutting norms and principles, including the ones recognized specifically for the right to development in the Working Group's discussions, are also reflected in the choice of criteria and indicators in this framework.

[15] In the case of human rights where illustrative indicators have been identified, it can be seen that on average about four attributes are able to capture reasonably the essence of the normative content of those rights (ibid.).

[16] This necessity of monitoring the outcomes, as well as the underlying processes, in undertaking human rights assessments is, perhaps, not equally recognized in the case of the two sets of human rights; it is more obvious to accept it for economic, social and cultural rights. In many instances, particularly in the context of developing countries, these rights can be realized only progressively because of the resource constraints. In such cases it is logical to monitor the process of progressive realization of the concerned human right. However, even civil and political rights, which, once ratified and guaranteed by the concerned State, can in principle be immediately enjoyed, have to be protected ad infinitum. It is also true, and now recognized in the literature, that implementation and realization of civil and political rights requires both resources as well as time, for instance to set up the requisite judicial and executive institutions and to frame policy, and regulatory and enforcement frameworks to protect these rights. In other words, in monitoring the realization of civil and political rights as well, it is equally important to assess the conduct of the process that supports the protection of such rights.

Operationalizing human rights standards



III. Identifying the attributes of the right to development

The task of identifying attributes involves selecting the salient aspects that collectively reflect the normative standard on the right. Foremost, the Declaration on the Right to Development paved the way to bridge the separation between civil and political rights and economic, social and cultural rights that had resulted from the adoption of two separate covenants in 1966. The right to development, thus, formalized the notion of "indivisibility of human rights". The implication of this aspect of the right requires that the policy and the focus of the implementation strategy necessarily has to be on a holistic development process. The relevant standards on civil and political rights and economic social and cultural rights have to be seen as an integrated whole and recognized in the criteria articulated for furthering the implementation of the right to development. The first attribute of the right to development should, therefore, focus on holistic human-centred development.

A. Holistic human-centred development[17]

Based on the Declaration, in operationalizing the notion of holistic human-centred development (arts. 2 (1) and 1 (1)) it could be argued that a focus is required on: (a) an integrated strategy for the implementation of all human rights (arts. 1 (1), 6 (2) and 9 (1) refer to this aspect) that respects and promotes indivisibility and interdependence of rights; (b) not only the outcomes of the development process, which can be identified with the realization of all human rights, but also on the process of their realization (arts. 1 (1), 2 (1)-2 (3) and 8 (2)); and (c) a sustainable development process that promotes growth with equity (art. 2 (3)).

Human rights are indivisible, interdependent and complementary.[18] Complementarity of rights implies interdependence or mutual reinforcement and a sense of completeness, which is attained when parts come together to form a whole. Thus, improvement in realization of economic and social rights cannot take place at the expense of enjoyment of civil and political rights. Indeed, the two sets of rights complement each other. These characteristics of rights make it imperative that enjoyment of human rights involves a process of co-realization of all rights. The right to development has to be seen as a composite right wherein all rights, because of their interdependence, indivisibility and complementarity, are realized together. The integrity

[17] The task force in 2009 named this attribute "comprehensive human-centred development" (A/HRC/12/WG.2/TF/2, para. 102).

[18] Complementarity is a term normally not seen in human rights literature. However, different human rights complement each other in influencing human well-being. See OHCHR, *Human Rights Indicators* (footnote 1).

of the right implies that if any one constituent right is violated (or subjected to retrogression) the composite right to development is also violated.[19]

The Declaration on the Right to Development highlights the importance of the process as well as the desired outcomes in the realization of the right to development. It defines the right to development as a right to participate in, contribute to and enjoy the fruits of multifaceted development. The process in realizing the right is important for instrumental reasons as well as for its intrinsic merit in terms of human well-being. Thus, for instance, in the case of the right to education, access to education (as a public good) is as important as being able to benefit from education in a non-discriminatory manner. This focus on the conduct of the process in conformity with human rights standards and cross-cutting norms, including the effective participation of all stakeholders, has to be reflected in the choice of criteria, sub-criteria and operative indicators for the right to development.

The first Independent Expert on the right to development, Arjun Sengupta, reiterated this when he defined the right to development as a right to a particular process of development in which all human rights and fundamental freedoms can be fully realized in their totality as an integrated whole.[20] The right to development is a right of the people to outcomes, which are improved realization of different human rights. It is also a right to the process of realizing these outcomes facilitated by the concerned duty holders through policies and interventions that conform to the human right standards and the cross-cutting norms. Similarly, S.R. Osmani[21] suggested that "the right to development is the right of everyone to enjoy the full array of socio-economic-cultural rights as well as civil-political rights equitably and sustainably and through a process that satisfies the principles of participation, non-discrimination, transparency, and accountability".

In his interpretation, Sengupta attached significant importance to economic growth in defining the content of the right to development. He saw a role for economic growth in relaxing the resource constraints for the realization of the right (see E/CN.4/2002/WG.18/6, para. 11 and also para. 9). This growth had to be sustainable and, at the same time, inclusive to promote equity in the distribution of returns from growth. The importance of economic growth is critical when the concern is to co-realize all human rights, without retrogression in the enjoyment of any right, and when the pace of securing the rights is also an issue. Some rights, namely economic, social and cultural rights, or rather some aspects of rights, can be realized only progressively due to resource constraints (particularly in developing countries) and when the prevalent level of enjoyment of those rights falls considerably short of the possibility of fuller realization. There are other human rights, mainly civil and political rights, which may be realized more directly and immediately, as they do not require significant levels of resources for their fulfilment.[22] In Sengupta's formulation, economic growth is not only instrumentally relevant, but it is also sufficiently critical for the realization of the right to development to be an end in itself.[23]

B. An enabling environment

The second attribute of the right to development follows from the importance placed in the Declaration

[19] The Independent Expert, in his fifth report, described this in terms of an improvement of a "vector" of human rights, which is composed of different rights that constitute the right to development. The realization of the right to development implies an improvement of this vector, such that there is improvement of some or at least one of these rights without any other right being violated. It relates directly to the principle of non-retrogression, which, put simply, implies that no one should suffer an absolute decline in the enjoyment of any rights at any point in time. S.R. Osmani, in "Study on policies for development in a globalizing world: what can the human rights approach contribute?" (E/CN.4/Sub.2/2004/18) and "An essay on the human rights approach to development", in *Reflections on the Right to Development*, pp. 109-125, argues that the human rights approach (which could also be read as "right to development") necessarily requires sectoral integration at the level of policymaking because of the interdependence and complementarity of rights. Indeed, interdependence and complementarities exist among rights within the category of economic, social and cultural rights and between economic, social and cultural rights and civil and political rights.

[20] The reports of the Independent Expert are as follows: first report (E/CN.4/1999/WG.18/2); second report: (A/55/306); third report (E/CN.4/2001/WG.18/2); fourth report E/CN.4/2002/WG.18/2 and Add.1); fifth report (E/CN.4/2002/WG.18/6 and Add.1); sixth report (E/CN.4/2004/WG.18/2); country studies on Argentina, Chile and Brazil (E/CN.4/2004/WG.18/3); and the preliminary study on the impact of international economic and financial issues on the enjoyment of human rights (E/CN.4/2003/WG.18/2).

[21] "Some thoughts on the right to development", in *The Right to Development: Reflections on the First Four Reports of the Independent Expert on the Right to Development*, Franciscans International, ed. (Geneva, Franciscans International, 2003), pp. 34-45.

[22] It could be argued that for securing civil and political rights as well as economic, social and cultural rights, the resource requirements may be considerable when it comes to establishing an adequate human rights protection system in the country. Thus, there may be an element of progressive realization in both sets of rights. At the same time, irrespective of resource availability, there are some immediate obligations in the fulfilment of economic rights, such as non-discrimination in accessing public education or health services that have to be met by the duty bearer.

[23] Sengupta had suggested that it has to be an element of the vector that defines the composite right to development in any context. The issue of whether economic growth has instrumental importance or also has a constitutive relevance in the notion of the right to development could be debated. It could well be argued that a certain kind of economic growth, when seen in terms of the opportunities that it generates for the people to be productively employed and have a life of dignity and self-esteem, may also have a constitutive role in the notion of the right to development. However, to the extent that these desired aspects of growth can be reflected in the process and the other outcomes comprising the right to development, it may not be tenable to argue for a "right to economic growth" and reflect it accordingly in the notion of the right to development.

on the enabling environment in the implementation of the right (art. 3 (1)-3 (3)). The Declaration points out that States have the duty to take steps—individually and collectively—to create the enabling environment, internationally and nationally, for the full realization of the right. In doing so, it suggests that States have to take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic, social and cultural rights (art. 6 (3)). A related aspect of this feature is that while acknowledging the State as the primary duty bearer of the right to development, the Declaration emphasizes the importance of international cooperation in the realization of the right (art. 4 (2)). Thus, in terms of reflecting this aspect of the right to development in criteria for its implementation, it would be necessary to identify a few vital elements of an enabling environment and the critical obstacles to development at the international and national levels.

The development literature identifies at least four categories of obstacle (or, alternatively, the enabling factors), which may be difficult to address with the extant national capacity, particularly in developing countries, and therefore may require international support or cooperation.[24] These are: (a) the issue of resource constraints, which includes the need for aid, debt relief, technology flows and labour (human resource) mobility; (b) an international policy regime (the trade regime, instability in financial markets) that may not be entirely supportive of the development process in developing countries, for example by denying them adequate access to markets in developed countries; (c) asymmetries in global governance, or what has also been described as a "democratic deficit" in multilateral organizations; and (d) the issues related to ensuring peace, security (conflict management) and disarmament (article 7 of the Declaration). Indeed, as Sakiko Fakuda-Parr suggests,[25] the international responsibilities relate to addressing obstacles that a State is unable to tackle on its own. To address such obstacles, there would be a need for international cooperation that recognizes mutual and reciprocal responsibilities between States, taking into account their respective capacities and resources and subject to effective accountability mechanisms. On the national level, the three major concerns in terms of an enabling environment for the implementation of the right to development relate to: (e) the issue of country ownership of the development plans, strategies and programmes; (f) the issue of policy space; and (g) the issue of good governance, rule of law and democracy. Therefore, in operationalizing the second attribute of the right to development, there is a need for criteria/sub-criteria or indicators that reflect each of the seven elements identified here as constituting the notion of an enabling environment or, inversely, the obstacles to development.[26]

In the discussion on the role of an enabling environment in the implementation of the right to development, the issue of loss of "policy space" or "policy autonomy" in the developing countries and how it could potentially affect the capacity of these countries in meeting their human rights obligations is a relevant one. It is particularly so in times of crisis and economic stress. In the present phase of globalization, with its attendant requirements for building global policy regimes, ensuring policy coherence and market access across countries (such as the trade agreements pursued by the World Trade Organizations (WTO), or caps on fiscal deficits as a part of financing conditionality by international financial institutions, or in the case of economic unions) may in fact restrict the flexibility of developing countries in the use of certain policy instruments (such as raising resources for social development programmes through indirect taxes/customs duties in countries where the direct tax base is narrow, or property rights restrictions on the manufacture of generic drugs, or use of other technologies) that the currently developed countries may have enjoyed at the comparable stage of their development. This may necessitate the use of temporary special measures (such as in WTO) until such time that the development gap is sufficiently bridged and the special measures are no longer required.[27]

C. Social justice and equity

Finally, the third attribute of the right to development follows from the emphasis placed on eradication of all social injustices in the Declaration (arts. 5 and 6 (1)). Pursuit of social justice is a vital aspect of the right to development normative framework. It emphasizes the moral imperative of eliminat-

[24] See, for instance, chapter 15 of this publication.

[25] Ibid.

[26] The task force grouped these seven elements of the attribute "enabling environment" into five categories, namely "international cooperation and assistance", "national policy space and autonomy", "rule of law and good governance" and "peace, security and disarmament". See A/HRC/12/WG.2/TF/2.

[27] In his study on globalization (E/CN.4/2004/WG.18/2), Sengupta identified the issue of loss of policy autonomy, constraints on institutional capacity, the speed of adjustments and required policy responses, as well as the need for coordination of policies as factors influenced by the ongoing processes of globalization that have had a bearing on the implementation of the right to development in developing countries. He also analysed the issue of technology transfer between the technology producers and the technology recipients and the implications that had for implementing the right to development. The criteria to assist in the implementation and assessment of the right to development may have to reflect these concerns.

ing inequalities between people. More specifically, it seeks to dismantle the institutional structures and practices, involving acts of omission as well as commission of the principal duty bearer, which help perpetuate those inequalities at the national and international levels. Ultimately, the realization of the right to development "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" (art. 8 (1) of the Declaration).

There are at least three elements that may have to be captured in criteria on this attribute of the right to development. These are: (a) a focus on non-discrimination (following article 5) and inclusion, inter alia, of all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, unity and territorial integrity; (b) gender equality and rights of women in development (art. 8 (1)); and (c) the importance of social safety nets in mitigating hardships and dislocative effects during times of economic crisis, stress or natural disasters.[28]

Let us now briefly consider what some other literature on the right to development has to offer by way of elaboration on some of the elements listed under the three attributes of the right to development identified in this chapter (and its earlier version, document A/HRC/12/WG.2/TF/CRP.6) and adopted by the task force in 2009.

After the adoption of the Declaration on the Right to Development in 1986, significant clarification on the content and the implementation of this right was provided by the Global Consultation on the Right to Development as a Human Right held in Geneva in 1990.[29] With reference to the content of the right, it was observed that the right to development included the right to effective participation in all aspects of development and at all stages of the decision-making process; the right to equal opportunity and access to resources; the right to fair distribution of the benefits of development; the right to respect for civil, political, economic, social and cultural rights; and the right to an international environment in which all these rights can be fully realized. The human person was seen as the central subject, rather than a mere object, of the right to development and the concept of participation was seen as being central to the realization of the right. Participation was to be viewed as a means to an end as well as an end in itself. It was the principal means by which individuals and peoples collectively determined their needs and priorities to ensure protection and advancement of their rights and interests. For participation to be effective in mobilizing human and natural resources and in combating inequalities, discrimination, poverty and exclusion, genuine ownership or control of productive resources, including land, financial capital and technology, was seen as necessary.

The Global Consultation favoured a development strategy that addressed the issue of not only economic growth compliant with the cross-cutting human rights norms but of achieving social justice and the realization of all human rights. A role was foreseen for affirmative action, or temporary special measures, in the development strategy, both at the national level in favour of disadvantaged groups and at the international level in terms of development assistance to countries constrained by limited availability of resources and technical capacities. The removal of barriers to economic activity, such as trade liberalization, was not seen as sufficient in itself. There was recognition of the interdependence between peace, development and human rights as the framework for supporting an enabling environment for realizing the right to development.

Among the possible criteria for measuring progress towards the realization of the right to development, the Global Consultation identified a number of categories, including: conditions of life (basic material needs such as food, health, shelter, education, leisure and a safe and healthy environment, as well as personal freedom and security); conditions of work (employment, extent of sharing in the benefits of work, income and its equitable distribution and degree of participation in management); equality of access to resources (access to resources needed for basic needs and equality of opportunity); and participation. Since participation was the right through which all other rights in the Declaration were to be exercised and protected, indicators on participation were critical in measuring progress in the realization of the right to development. Indicators to measure participation needed to capture the form, quality, democratic nature and effectiveness of participatory processes, mechanisms and institutions. At the international level, this included assessing the "democratic deficit" in intergovernmental bodies. Moreover, it was concluded that in assessing participation there was

[28] The task force rephrased this element as "sharing the benefits of development". See A/HRC/12/WG.2/TF/2.

[29] See chapter 3 of the present publication.

a need to include public access to information and responsiveness of decision makers to public opinion.

In his reports Sengupta also presented the concept of a "development compact", with a view to outlining a programme of specific policies of national action and international cooperation for implementing the right to development. He viewed the compact as a mechanism for bringing together various stakeholders in an operational framework based on the notion of the "mutuality of obligations" or "shared responsibilities". The logic of the proposal rested on the acceptance and a legal commitment by States to pursue, individually and collectively, the universal realization of all human rights. He argued that if the developing countries were committed to the realization of human rights and undertook steps to implement a rights-based development process, then their efforts should be matched by the implementation of the reciprocal obligations by the international community. This could take the form of support and cooperation in the implementation of the agreed programmes through direct assistance and such other measures that improved the prospects of the developing countries in mobilizing the required resources to fund their efforts to meet their human rights obligations. The concept of the compact, particularly the idea of mutuality of obligations, though not explicit in the Declaration, helps capture the essence of the right for its implementation. Indeed, as policies underpinning international cooperation have not been anchored in this concept of mutuality of obligations, the concept becomes a natural candidate for inclusion in the set of criteria for assessing development partnerships for compliance with the right to development.[30]

The distinction between the national and the international dimensions of the right to development, often favoured in the human rights discourse, has somehow reinforced an impression that the two could, perhaps, be studied and analysed separately in evolving strategies for furthering the implementation of the right to development. However, the recent phase of globalization, because of its pace, spread and the depth of integration across countries, has exposed the limitation of making this differentiation between the two dimensions of the right to development. This is particularly evident when one considers the fallout from the recent global financial sector meltdown that has affected almost all countries, directly or indirectly, irrespective of their level of involvement in the international (rather, United States) financial markets where the crisis erupted in mid-September 2008. In reality, the national and the international dimensions of the right to development are closely entwined. Impediments to national development, commonly identified at the international level, necessarily require corresponding commitments at the national level. Similarly, the issue of governance is cross-cutting and relates as much to the effective and efficient functioning of national institutions as to the role and operations of international organizations/institutions. It is also true that in many developing countries the gap between the present enjoyment of human rights and a fuller realization of human rights has to be visibly bridged in a reasonable period of time. This requires renewed effort at identifying effective national policies and backing them up with suitable international cooperation and development assistance. Therefore, it is desirable that in identifying policies and strategies for the realization of the right to development, the national and the international dimensions be viewed in an integrated manner.

Having identified the attributes of the right to development and their respective operational elements, the challenge now is to reflect them in concrete criteria and corresponding qualitative and quantitative indicators that will facilitate the operationalization of the right and its implementation. Indeed, the three attributes represent a significant step in concretizing the content of the right. One often finds—and this is true of most human rights—that the enumeration of standards on a right in the articles (i.e., treaty provisions) and their elaboration in relevant instruments (including general comments by the relevant treaty bodies in the case of the legal instruments) are quite general and even overlapping, and not quite amenable to the process of identifying operational criteria or sub-criteria. By selecting the attributes of a right, the process of identifying suitable criteria or appropriate quantitative measures is considerably facilitated.

IV. Review of the task force criteria: issues and options

A critical examination of the right to development criteria for assessing global partnerships for development from a right to development perspective suggested by the task force at its fourth session in 2008 raises several issues, both conceptual and methodological. The issues become somewhat complex as one looks beyond the objective for which

[30] The idea of a "compact" was first proposed by T. Stoltenberg in the late 1980s and was elaborated in the *Human Development Report 2003*. Osmani has also suggested that the concept of a development compact may be useful for implementing the right to development (see footnote 21).

the suggested criteria were initially articulated and applied. First and foremost, we could have criteria that merely assist in the identification of aspects of global partnerships for development that conform to the right to development framework; alternatively, we could develop a set of validated criteria as a means to clarify the content of the right to development and thereby further its operationalization with the help of clear, measurable tools (qualitative and quantitative indicators). These tools, in turn, could enable and support a periodic assessment of the progress being made in the implementation of the right. The issue is essentially one of the scope and coverage of criteria that have already been articulated or could potentially be identified. Clearly, the right to development and its implementation entails much more than implementing a well-conceived partnership for development.

Therefore, the content and focus of the criteria will differ depending on what the objectives for identifying the right to development criteria are. In the first instance, the criteria will have to reflect and emphasize the instrumental aspect of the right, focusing on the process and procedural aspects (cross-cutting norms) that the right to development framework can contribute to in making development partnerships more effective. For this, the formulation of criteria could be more generic, since reference to the human rights standards will be minimal and the acceptance of the suggested criteria would depend largely on the perceived appeal of the criteria to the stakeholders in the development partnership. This appeal, in turn, will be based on the assessment of the concerned stakeholders of the potential contribution of the criteria to the intended results of their partnership. In the second instance, a starting point is to review the suggested criteria for their comprehensiveness in reflecting the right to development normative framework. The criteria in this case will have to cover exhaustively the human rights standards and the cross-cutting norms as applicable to the right to development.

Second, at a purely functional level, in the real-life context there isn't as yet a partnership for development at the global, regional or bilateral level that could be described as being uniquely designed for and anchored in the right to development normative framework. Therefore, the set of criteria that were applied to study the global partnerships for development need not be exhaustive. Third, to continue the argument, if all we need are generic criteria that allow us to assess the extent of congruence between the existing/ongoing development partnerships and the right to development, there may not be any need to develop sub-criteria or additional criteria that are particularly useful for analysing thematically focused, specific development partnerships such as those on trade, or technology transfers, or simply aid, debt and concessional flows, as was intended and reflected in the task force discussions (at the third and fourth sessions).[31] For in that case, as argued earlier, the specific objectives of the existing/ongoing partnerships are not as important as the manner in which the partnerships are being conducted. Therefore, the partnerships may as well be following a rights-based approach as against a right to development normative framework.[32]

Fourth, the ex-post categorization of criteria into structural/institutional, process and outcome after the criteria had already been articulated[33] may not be appropriate; it seems an afterthought, not adding any real value to the suggested criteria.[34] Indeed, as described earlier in section II, such a categorization has been used in the context of the work by OHCHR on the identification of quantitative measures to promote and monitor the implementation of human rights undertaken for the international human rights treaty bodies.[35] In that work, an ex-ante use of this categorization helped in transcribing the narrative on the normative content of the different human rights into a consistent and comprehensive set of quantitative and qualitative indicators. Moreover, the configuration of structural-process-outcome indicators helped in identifying indicators that could reflect the commitment-effort-results aspect of the realization of human rights through available quantifiable information. It has been suggested that an objective assessment of this relationship forms the bedrock of human rights assessment. The use of the structural-process-outcome categorization may therefore be more useful in identifying the quantitative measures or indicators corresponding to the right to development criteria rather than in categorizing the criteria themselves.

The fifth concern relates to the overlapping scope of many of the proposed criteria (which was eventually addressed at the fifth session of the task force). For operational ease and effective application

[31] This line of thinking to take the work forward was rejected by the task force at its meeting in April 2009.

[32] In contrast to a rights-based approach, which emphasizes the application of human rights cross-cutting norms and principals such as participation or non-discrimination and equality, the operationalization of the right to development, or for that matter any substantive human right, requires in addition the specific standards of that right to be respected, protected and fulfilled by the duty bearer concerned.

[33] See A/HRC/4/WG.2/TF/2.

[34] In fact, the categorization of criteria as structural, process or outcome is not consistent and is open to question.

[35] See OHCHR, *Human Rights Indicators* (footnote 1).

of the criteria (or sub-criteria), it may be necessary to review the criteria and make them, as far as possible, mutually exclusive in the scope of their content. This is an issue that has also been highlighted in the papers commissioned by OHCHR on the analysis of different global partnerships for development.[36] There is also the related concern of restricting the overall number of criteria and/or sub-criteria. At the same time, it would be desirable that the identified attributes of the right and the selected criterion, when considered together, present, as far as feasible, an exhaustive understanding of the normative content of the right to development.

Therefore, on balance, it may be desirable to work towards a comprehensive set of criteria that help in concretizing the normative framework on the right to development and thereby facilitate progress in its implementation. Thus, beginning with the identification of the attributes of the right to development and articulating their scope, followed by criteria and then sub-criteria, quantitative and qualitative measures will be required as outlined in the earlier section. Such an approach is consistent with the work undertaken by OHCHR for the United Nations human rights treaty bodies in identifying indicators for selected substantive and procedural human rights in the Universal Declaration of Human Rights, covering both civil and political rights and economic, social and cultural rights.

A. Rationalization of the task force criteria

Accordingly, as a first step in the review of the task force criteria,[37] there is a need to rationalize the criteria for overlapping content and redundancy. Of the 17 criteria suggested by the task force, 7 could be dropped altogether without compromising content or absorbed into others by suitably modifying the remaining criteria. Also with a view to ensuring that the criteria reflect the normative framework of the right comprehensively, some criteria need to be added or framed differently. The proposed revised criteria, devoid of categorization as structural/institutional, process or outcome, for reasons explained earlier, are as follows.

The implementation of the right to development requires conformity with and implementation of policies and initiatives by all relevant stakeholders that:

(a) Draw on all relevant international human rights standards, including those relating to the right to development, in elaborating the content of development strategies/partnerships and tools for monitoring and evaluating their implementation;

(b) Follow a human rights-based approach to development and integrates the principles of equality, non-discrimination, participation, transparency and accountability in their development strategies;

(c) Provide for the meaningful consultation and partnership of all stakeholders, including by ensuring free flow of relevant information in elaborating, implementing and evaluating development policies, programmes and projects;

(d) Contribute to creating an enabling environment for sustainable, equitable development that enables the realization of all human rights;

(e) Recognize mutual and reciprocal responsibilities among the development stakeholders/partners, supported by institutionalized accountability mechanisms, taking into account their respective capacities and resources;

(f) Respect the right of each State to determine its own development policies in accordance with international law and the role of national parliaments to review and approve such policies;

(g) Promote good governance, democracy and the rule of law and effective anti-corruption measures at the national and international levels;

(h) Establish policy priorities that are responsive to the needs of the most vulnerable and marginalized segments of the population, with positive measures to realize their human rights;

(i) Promote gender equality and the rights of women; and

(j) Establish safety nets to provide for the needs of vulnerable populations in time of natural, financial or other crisis.

[36] See, for instance A/HRC/8/WG.2/TF/CRP.5, which highlights the need to revise the criteria with a view to making them more focused (see also chapter 16 of this publication), or the reports of the technical missions of the task force (see part two of the Selected Bibliography).

[37] See A/HRC/8/WG.2/TF/2.

It can be seen that these criteria unpack the three attributes of the right to development identified in this chapter.[38] Thus, criteria (a) to (c) relate to holistic human-centred development, criteria (d) to (g) to an enabling environment and criteria (h) to (j) to social justice and equity.

B. Mapping criteria and indicators to right to development attributes

The table at the end of the chapter presents a possible mapping of the proposed revised criteria with the identified attributes of the right to development and their operational indicators. It can be seen that there are several gaps in the table where, first of all, no criterion has been identified for a specific operational element of an attribute, and occasionally no quantitative measure or indicator has been identified for an existing criterion.[39] The intention has been to merely illustrate the concept and methodology for developing an operational framework for implementing the right to development without being exhaustive. Secondly, as can be noted from the table format, a way has been found to develop further criteria that, for instance, relate to specific thematic partnerships for development, such as on trade, without rewriting some of the agreed criteria. At the same time, the link between a criterion and the normative content of the right continues to be explicit. Thirdly, following the approach outlined earlier, the table shows that it may be possible, or even desirable, to use the categorization of structure-process-outcome indicators in selecting the quantitative and qualitative measures for tracking the implementation of the criteria. Finally, though the national and the international dimensions have deliberately not been highlighted in reviewing/formulating the criteria, it is necessary to keep the two dimensions of the right to development in view in selecting the quantitative and qualitative measures for operationalizing and tracking the implementation of the right to development.

V. Conclusions and the way forward

In order to make progress in the implementation of the right to development, it is essential that while the conceptual basis of the criteria is strengthened, the identified criteria and their qualitative and quantitative measures are also validated empirically. This may require the task force to study additional partnerships at the international level, but also to analyse and document some national-level development experiences. The former would help in sensitizing the global development partnerships to the right to development perspective, particularly its international dimension. The latter would help in putting together some context-specific indicators and monitoring methodologies along with best practices that have contributed to the implementation of the right to development.

The operationalization of the right to development requires bridging of the human rights and development discourses, which can be aided by an approach such as the one presented in this chapter. One specific task, in taking this work forward, would be to elaborate additional suitable quantitative measures within the framework presented here, and build a broad-based consensus on their use by engaging various stakeholders at the national and international levels. The outcomes of such an exercise could help in the development of a set of operational methodologies (including an indicators-monitoring framework at national level that could also be used for international assessment of development partnerships[40]) and the identification of successful policies and public initiatives that could be incorporated as guidelines (or subsequently even elements of an international legal instrument) to further the implementation of the right and support a periodic assessment of its progress.

It has to be recognized that having suitable indicators to facilitate the implementation of the right to development is just one element, though perhaps a critical one, in the realization of the right. The other, equally important, element is to use indicators and other relevant information and methodologies to formulate the required policies and programmes to implement human rights. This chapter does not enter into an explicit discussion about the nature of policies and programmes that could help in the implementation of the right to development. While appropriate indicators may help in identifying development outcomes/goals that embody the normative human rights concerns and correspond to the realization of the

[38] The task force at its fifth session further refined these criteria to make them more comprehensive.

[39] It is possible to fill some of these gaps with sub-criteria (narratives) or context-appropriate indicators. The illustrative tables of indicators developed by OHCHR (see *Human Rights Indicators*) (footnote 1) provide a number of human rights quantitative and qualitative measures covering both civil and political rights as well as economic social and cultural rights that can be introduced in the right to development table, depending on the context, be it at the national level or, for global/regional development partnerships, at the international level.

[40] An institutional framework for undertaking human-rights based monitoring is discussed in Rajeev Malhotra, "Towards implementing the right to development: a framework for indicators and monitoring methods", in *Development as a Human Right*, Bård A. Andreassen and Stephen P. Marks, eds. (Boston, Harvard University Press, 2006) and A/HRC/12/WG.2/TF/CRP.6.

right to development, the policies that could help in reaching such goals and outcomes still need to be identified and tested. In general, while it is true that there is no unique model for the implementation of the right to development, as it is largely context-determined, there is considerable scope in analysing the development experience of both the developed and developing countries[41] to identify elements that can facilitate the implementation of the right to development.

[41] The Government of India has adopted a strategy for inclusive development, wherein the creation of entitlements backed by legal guarantees on aspects of life that are vital for an individual's well-being and inclusion in the economic and social mainstream of the society are an important element. In the recent past, the Government has worked towards realizing an individual's rights to information and to his/her work. This has been followed up with the enactment of the right to education in 2009/2010. As the next step, the Government is working on a Food Security Bill which would represent a significant step in guaranteeing the right to food. See Union Finance Minister's Budget Speeches 2009-2012, Government of India, available from http://finmin.nic.in.

Mapping proposed revised criteria to right to development attributes		
Attributes and corresponding operational elements	**Proposed revised criteria**	**Illustrative quantitative indicators**
I. Holistic human-centred development 1. Integrated strategy for interdependence and indivisibility of all rights 2. Complementarity of process and outcomes 3. Sustainable development promoting growth with equity	➢ Draws on all relevant international human rights standards, including those relating to the right to development, in elaborating the content of development strategies /partnerships and tools for monitoring and evaluating their implementation ➢ Follows a human rights-based approach to development and integrates the principles of equality, non-discrimination, participation, transparency and accountability in its development strategies ➢ Provides for the meaningful consultation and partnership of all stakeholders, including by ensuring free flow of relevant information in elaborating, implementing and evaluating development policies, programmes and projects	➢ International human rights treaties ratified by the State in case of a development partnership, referred to in partnership document ➢ Number of CCAs and UNDAFs prepared internationally and for specific countries ➢ Date of entry into force and coverage of legislation on the right (access) to information ➢ Proportion of complaints investigated and/or adjudicated by an independent public accountability mechanism/ombudsperson/autonomous oversight body for anti-corruption and public grievances ➢ Existence of an institutionalized consultation process for policy planning and proportion of occasions when it was bypassed ➢ Quota, time frame and coverage of temporary and special measures for targeted populations in legislative, executive, judicial and appointed bodies ➢ Gini coefficient of income/consumption or by quintiles ➢ Unemployment rates, by sex, target groups and level of education
II. Enabling environment 1. Adequate resources ➢ Aid ➢ Debt ➢ Technology flows ➢ Labour mobility 2. Supportive trade regime 3. Asymmetries in global governance 4. Peace, security and disarmament 5. Country ownership of development plans 6. Policy space and autonomy 7. Good governance & rule of law	➢ Contributes to creating an enabling environment for sustainable, equitable development that enables the realization of all human rights ➢ Recognizes mutual and reciprocal responsibilities among the development stakeholders/partners, supported by institutionalized accountability mechanisms, taking into account their respective capacities and resources ➢ Respects the right of each State to determine its own development policies in accordance with international law and the role of national parliaments to review and approve such policies ➢ Promotes good governance, democracy and the rule of law and effective anti-corruption measures at the national and international levels;	➢ ODA as percentage of GDP/share of net ODA in national development expenditure* ➢ Number of countries where more than 25% of budget spending is dependent on ODA ➢ Debt service ratio of the country* (as percentage of exports) ➢ External and within country repatriation of money by workers ➢ International, regional and bilateral arrangements that facilitate transfer of technology for social development to the least developed and developing countries ➢ Foreign trade as a proportion of GDP ➢ Proportions of total developed country imports (by value and excluding arms) from developing countries and least developed countries, admitted free of duty* ➢ Average tariffs imposed by developed countries on agricultural products and textiles and clothing from developing countries* ➢ Preferential/Special temporary measures under WTO ➢ Proportion of public expenditure on armed forces & arms ➢ International organizations that follow a representative/equitable system of decision-making ➢ Conviction rates by type of adjudicated crimes ➢ Reported cases of arbitrary detentions in the reporting period

Attributes and corresponding operational elements	Proposed revised criteria	Illustrative quantitative indicators
III. Social justice and equity 1. Non-discrimination and inclusion 2. Gender equality and rights of women 3. Social safety nets	➢ Establishes policy priorities that are responsive to the needs of the most vulnerable and marginalized segments of the population, with positive measures to realize their human rights ➢ Promotes gender equality and the rights of women ➢ Establishes, as needed, safety nets to provide for the needs of vulnerable populations in time of natural, financial or other crisis	➢ Reported cases of denial of access to public service or position on account of discrimination ➢ Proportion of seats in parliament, elected and appointed bodies/public service at higher level at subnational and local level held by women and target groups ➢ Quota, time frame and coverage of temporary and special measures for targeted populations in legislative, executive, judicial and appointed bodies ➢ GEM, HDI ➢ Proportion of public social expenditure on campaigns to sensitize people on violence against women and children ➢ Share of poorest quintile in national consumption* ➢ Proportion of population living on less than $1 (PPP) per day* ➢ Employment to population ratio* ➢ Public expenditures for targeted social assistance schemes per beneficiary ➢ Proportion of population covered by health insurance (public or private) ➢ Proportion of workers covered under social security who availed themselves of and received stipulated social security benefits in the reporting period ➢ Share of poorest quintile in national consumption*

Note: * denotes Millennium Development Goals indicator.