



General Assembly

Distr.: General
12 July 2024

Original: English

Human Rights Council

Fifty-seventh session

9 September–9 October 2024

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Individual and collective dimensions of the right to development

Thematic study by the Expert Mechanism on the Right to Development

Summary

In the Declaration on the Right to Development, the right to development is described as both an individual right of all human beings and a collective right of all peoples. The right to development is defined in the Declaration as “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”. While the individual and collective dimensions of the right are drawn from the recognition in that definition of every human person and all peoples as rights holders, the collective dimension also centres on self-determination, namely, the right of peoples to determine their own political status and economic, social and cultural development agendas. In the present thematic study, the Expert Mechanism on the Right to Development elaborates on the nature, scope and content of the right to development as both an individual right of all human beings and a collective right of all peoples and explores the relationship between the two.



I. Introduction

1. It is affirmed in the Declaration on the Right to Development that “the human person is the central subject of development and should be the active participant and beneficiary of the right to development” (art. 2 (1)). That affirmation underscores the importance of the individual in the development process and the fact that the right to development is not only a collective right but also a personal one. In the Declaration, while the human person is placed at the centre of development, the collective aspects of the right are also underscored. It is recognized that “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” (art. 1 (2)). This recognition serves to highlight the intricate interdependent nature of the right to development and the right to self-determination. The right to self-determination is defined in article 1 (1) of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as the right of all peoples to “freely determine their political status and freely pursue their economic, social and cultural development”.

2. It is recognized in the Declaration on the Right to Development that States have obligations to realize the right to development of all individuals, as well as that of peoples, including by eliminating the obstacles thereto. Despite that clear emphasis, there remains a lack of clarity among some stakeholders on the precise nature, content and scope of this right and their corresponding duties in its application to individuals and peoples. Indeed, some States and non-State actors continue to contend that they recognize the right to development as an individual right only, even questioning the existence of the rights of peoples in international human rights law. Some stakeholders seek to justify that position on the ground that recognizing development as a collective right may be abused by States as a pretext on which to deny individual rights. Others agree that the right has a collective nature but are not always clear on the definition of “peoples”, especially in its application to the right to development. Queries are often raised as to whether the term “peoples” refers to the entire population of a State or also to specific groups thereof and, in the latter case, what criteria should be used to determine which groups constitute a people for the purpose of the right to development. A related issue is whether States can be construed as rights holders in the context of international obligations regarding the right to development.

3. During its eighth session, held from 30 October to 1 November 2023, participating stakeholders called upon the Expert Mechanism on the Right to Development to address those questions. Specifically, the Expert Mechanism received requests to conduct a study exploring the individual and collective dimensions of the right to development and their practical implications for the duties of States and other duty bearers. The Expert Mechanism initiated the present study in that context. In the preparation of the present study, the Expert Mechanism issued a call for input, inviting States and other stakeholders to provide information in response to a concept note posted on the website of the Office of the United Nations High Commissioner for Human Rights. The present study has been informed by the submissions received.

4. The purpose of the present study, therefore, is to explore the following themes:

- (a) The nature, scope and content of the right to development as both an individual right of all human beings and a collective right of all peoples;
- (b) The definition of peoples in international human rights law, including in its application to the right to development;
- (c) The nature, scope and content of the duties of States and other stakeholders in their application to the right to development as both an individual right of all human beings and a collective right of all peoples;
- (d) The relationship between the right to development as an individual right and as a collective right, including when the realization of one may conflict with the realization of the other;

- (e) Practical good practice illustrations of how to balance any such perceived or actual conflicts.

II. An integrated approach to human rights

5. The normative framework of the right to development emphasizes a developmental process through which all human rights can be fully realized,¹ following an approach aligned with international human rights standards.² It involves a holistic process aimed at realizing individual and collective human rights through adherence to international norms.³ This development process is focused on promoting equity and justice by enhancing living standards and empowering the individual and the entire population.

6. The essence of the right to development lies in an integrative approach, which seeks to amalgamate development and human rights, positioning the individual at the core of developmental processes while also recognizing that individual well-being is intrinsically connected with communal welfare. The right “acknowledges the collective dimension, an issue which is often overlooked in relation to human rights”.⁴ The collective dimension adds value by recognizing that individual empowerment often depends on broader collective social, economic and cultural conditions. The realization of the right to development necessitates a collective approach whereby States and international bodies must collaborate to create conditions that allow for the comprehensive development of societies. This collective approach is especially relevant in addressing systemic issues, such as poverty and inequality, that affect large groups and require coordinated efforts to resolve.

7. The right to development encompasses the rights of individuals to participate in, contribute to and enjoy economic, social and cultural development. At the same time, it reflects a recognition that achieving development often requires collective efforts and benefits whole communities and societies.⁵ This includes cooperation among States, at the international level, to create an environment conducive to development.⁶ While a distinction is often drawn between individual and collective rights in the literature, the separation is not so clear-cut in practical application. The realization of collective human rights is fundamentally linked to safeguarding individual human rights.⁷ This is especially true given that individuals exist within the fabric of communities, and any suppression of collective rights invariably has an impact on individual rights.

8. The inclusion of both individual and collective dimensions in the right to development, as articulated in the Declaration on the Right to Development, represents a comprehensive approach to human rights, in particular to development as a human right. This dual focus acknowledges that actual development transcends economic growth, encompassing the improvement of all dimensions of human well-being and dignity. By mandating States to devise policies aimed at benefiting all individuals and the population as a whole, the Declaration encourages a holistic development model that is grounded in human rights. This holistic approach to development is also expressed in the draft international covenant on the right to development,⁸ in which it is recognized that, as a collective right, development is a right of all peoples, including Indigenous Peoples and certain local communities. In the draft covenant, the human- and people-centred perspective is reinforced

¹ Declaration on the Right to Development, art. 1 (1).

² Submission from the Islamic Republic of Iran.

³ See Arjun Sengupta, “Conceptualizing the right to development for the twenty-first century”, in *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development* (United Nations publication, 2013).

⁴ [A/HRC/54/27](#), para. 20.

⁵ See Arjun Sengupta, “Development co-operation and the right to development”, in *Human Rights and Criminal Justice for the Downtrodden*, Morten Bergsmo, ed. (Leiden, Kingdom of the Netherlands, Brill Nijhoff, 2003).

⁶ See Felix Kirchmeier, “The right to development: where do we stand?”, *Dialogue on Globalization Occasional Papers* (Geneva, Friedrich-Ebert-Stiftung, 2006).

⁷ See Daniela García Villamil, “Indigenous self-determination and the human-rights based approach to sustainable development: potentials and limitations”, Master’s thesis, Åbo Akademi University, 2021.

⁸ [A/HRC/54/50](#), annex. See also [A/HRC/54/41](#), annex II.

as a foundational principle underpinning the right to development, and it is affirmed that “the individual and peoples are the central subjects of development and must be the active participants and beneficiaries of the right to development”.⁹

9. The right to development epitomizes the indivisibility of human rights. It is recognized as a fundamental human right, ensuring that all individuals and peoples have the opportunity to benefit from the development process. This perspective emphasizes the primary role of States in facilitating development.¹⁰ It also stresses the importance of international cooperation and solidarity in achieving worldwide development goals, ensuring more inclusive and equitable progress for all members of the global community.

A. Individual and collective rights provisions

10. The individual and collective dimensions of the right to development are evident in its normative origins in the 1960s and 1970s, when countries of the global South pushed for a multilateral framework for a new international economic order.¹¹ The proposal was aimed at ending economic colonialism and dependency through a new, more equitable and interdependent global economy.¹² That era was marked by the adoption of significant declarations on the global political economy, including the Charter of Algiers in 1967, whereby the Group of 77 asserted the obligation of the international community to rectify inequitable trends in the international economic order and “create conditions under which all nations can enjoy economic and social well-being, and have the means to develop their respective resources to enable their peoples to lead a life free from want and fear”. The Commission on Human Rights echoed that position in 1977, when it officially recognized the right to development as a human right.¹³ Those developments set the stage for the adoption by the General Assembly of the Declaration on the Right to Development in 1986.

11. The individual and collective dimensions of the right to development were also evident from its conceptual foundations. In 1972, the jurist Kéba M’Baye, a notable figure in the early discourse about rights, articulated the intrinsic link between freedoms and human rights and the essential nature of the right to development as a right of both individuals and peoples.¹⁴ He argued that the right was tacitly acknowledged in several key international documents, including the Charter of the United Nations, the International Covenants on Human Rights and the Universal Declaration of Human Rights.¹⁵ In 1979, the General Assembly emphasized the right to development as a human right through resolution 34/46, highlighting that nations and individuals within them had an equal entitlement to development opportunities.¹⁶

12. Nevertheless, it seems that, in the formative stages of the right to development, its collective dimensions were the primary focus. For instance, the 1981 African Charter on Human and Peoples’ Rights, in which a distinction is made between “human rights” (individual rights) and “peoples’ rights” (collective rights), incorporated the right to

⁹ A/HRC/54/50, annex, art. 3 (a).

¹⁰ See Arjun Sengupta “On the theory and practice of the right to development”, *Human Rights Quarterly*, vol. 24, No. 4 (2002), pp. 837–889.

¹¹ See General Assembly resolution 3201 (S-VI).

¹² See Karin Arts and Atabongawung Tamo, “The right to development in international law: new momentum thirty years down the line?”, *Netherlands International Law Review*, vol. 63, No. 3 (2016), pp. 221–249.

¹³ Commission on Human Rights resolution 4 (XXXIII) of 21 February 1977. For a more detailed overview of United Nations involvement in the recognition and definition of the right to development, see <http://www.ohchr.org/EN/Issues/Development/Pages/Backgrounddrt.aspx> and http://legal.un.org/avl/pdf/ha/drd/drd_ph_e.pdf.

¹⁴ See Charles Riziki Majinge, ed., *Rule of Law Through Human Rights and International Criminal Justice: Essays in Honour of Adama Dieng* (Newcastle-upon-Tyne, United Kingdom of Great Britain and Northern Ireland, Cambridge Scholars Publishing, 2015).

¹⁵ See Kéba M’Baye, “Le droit au développement comme un droit de l’homme”, *Revue des droits de l’homme*, vol. 5 (1972) (in French).

¹⁶ Khurshid Iqbal, “The Declaration on the Right to Development and implementation”, *Political Perspectives*, vol. 1, No. 1 (2007), p. 5.

development as a collective right. That Charter underscores the significance of the right to development in its preamble and elaborates on the collective right of peoples to develop economically, socially and culturally, with due respect for their freedom and identity, thereby promoting equitable participation in the global heritage.

13. The adoption of the Declaration on the Right to Development in 1986 marked a milestone in the intersection of human rights and development. The normative foundation of the right to development is the postulation in the Declaration that “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” (art. 1 (1)). The inclusive nature of development is emphasized in the Declaration.¹⁷ Development is conceptualized therein not merely in terms of economic growth but also as a means to expand individuals’ options to lead fulfilling intellectual, emotional, moral and spiritual lives that respect cultural identities and the diversity of cultures.

14. The inclusion of both individuals and peoples as rights holders in the Declaration on the Right to Development suggests the progressive expansion of international human rights norms from individual liberties to social justice and global responsibilities. The recognition of collective rights may address the limitations of an overly individualistic conceptualization of human rights and provide a framework for addressing issues of common concern to humankind, such as the climate crisis, peacebuilding and sustainable development.¹⁸

15. The right to development was prominently endorsed in the 1991 Rio Declaration on Environment and Development (principle 3) and in the 1993 Vienna Declaration and Programme of Action (part I, para. 10). Those two Declarations affirm each individual’s right to enjoy universal human rights and freedoms and collective rights as expressed in the principle of “equal rights and self-determination of peoples”. The affirmation of the individual and collective dimensions is also visible in the endorsement of the principle that the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.¹⁹ The right to development was also reinforced by the United Nations Millennium Declaration, from which the Millennium Development Goals emanated. In that Declaration, States explicitly committed themselves to “making the right to development a reality for everyone” (para. 11) and to “the fight for development for all the peoples of the world” (para. 29). In the 2007 United Nations Declaration on the Rights of Indigenous Peoples, it is recognized that “Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law” (art. 1), and the right of Indigenous Peoples to self-determination and development is also specifically recognized (arts. 3 and 23).

16. The 2030 Agenda for Sustainable Development reaffirms the right to development and is informed by the Declaration on the Right to Development (paras. 10 and 11). It thus reinforces both the individual and collective dimensions of this right. Although the term “people” is employed amorphously in the Agenda, it is clear that States have adopted a people-centred approach towards development, focusing on both the individual and the collective. Sustainable Development Goal 10 focuses, for instance, on reducing inequalities within but also among States, with special commitments towards developing countries. Several Goals relate to addressing climate change and environmental degradation, while Goal 16 focuses on promoting peaceful and inclusive societies for sustainable development, and Goal 17 seeks to strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development.

¹⁷ See Bonny Ibhawoh, “The right to development: the politics and polemics of power and resistance”, *Human Rights Quarterly*, vol. 33, No. 1 (2011), pp. 76–104.

¹⁸ Philip Alston, “Making space for new human rights: the case of the right to development”, *Harvard Human Rights Yearbook*, vol. 1 (1988), p. 4.

¹⁹ Rio Declaration, principle 3; and Vienna Declaration and Programme of Action, part I, para. 11.

B. Interdependence of individual and collective rights

17. The Declaration on the Right to Development conveys the interdependence of the individual and collective dimensions in its emphasis that the right to participate in, contribute to and enjoy development is an inalienable right for both the “human person and all peoples”. This provision articulates the objective of development, namely, “the constant improvement of the well-being of the entire population and of all individuals” (second preambular para.). It has rightly been noted that “well-being”, within that framework, is conceived of expansively.²⁰ The right to development is emphasized in the Declaration as a comprehensive process that extends beyond economic growth to include enhancing overall opportunities and capabilities for their enjoyment.²¹ Furthermore, development includes advancements in social, cultural and political areas, alongside the commonly acknowledged area of economic growth.²² However, opinions are divided as to whether the focus should be on individual well-being or whether collective welfare should be emphasized. Developed nations and developing nations are often at odds over whether the fulfilment of the right to development should be considered a measure of adherence to human rights standards in the context of State obligations.²³

18. Development endeavours ought to enhance a wide array of rights, including those in the civil, political, economic, social and cultural domains. Holistic and inclusive development is crucial for safeguarding both individual and collective rights, since the fulfilment of many rights depends on the accessibility of the resources of people as constitutive of individuals and as members of communities. The right to development is, therefore, a dual-natured right, one that emphasizes the interdependence of both dimensions of human rights: individual rights exist within the context of the collective, and there can be no full realization of collective rights without the protection and fulfilment of individual rights.

19. The debate over individual and collective rights and the tendency of some countries to limit human rights to their individual dimensions extends to the measurement of development. Some stakeholders consulted during the preparation of the present study critiqued approaches to measuring development that relied on abstract metrics and statistics to gauge progress. Such approaches could fail to reflect genuine advancements in human rights and quality of life for individuals and communities.²⁴ These stakeholders highlighted the essential need for development policies and practices focused on making concrete improvements to human lives and ensuring that achievements as measured by statistics were mirrored by real-world benefits for individuals and communities, thereby harmonizing the individual and collective dimensions of human rights in the development process. The combination of the emphasis placed in the Declaration on the Right to Development on the human person as the central subject of development and the critique by some stakeholders of abstract development metrics suggests a need for more holistic frameworks for measuring development that harmonize the individual and collective dimensions of human rights in pursuit of sustainable and inclusive growth.

20. Stakeholders consulted in the preparation of the present study called for a more integrated approach to the right to development that accommodated both its individual and its collective dimensions. Such an approach involves acknowledging the legitimacy and importance of diverse cultural perspectives on development and human rights and advocating for international policies and practices that are inclusive and reflective of global diversity. A nuanced understanding of the right to development can pave the way for more effective and universally acceptable development policies and practices.²⁵ For example, while individual rights lay the foundation for specific economic and social rights entitlements, the right of peoples to sovereignty over natural wealth and resources must be exercised for the collective benefit of all individuals. In scenarios involving individual rights, the rights holder directly

²⁰ Sengupta, “On the theory and practice of the right to development”, p. 848.

²¹ E/CN.4/1999/WG.18/2, para. 47.

²² Declaration on the Right to Development, second preambular para. and art. 1; and A/HRC/48/63, para. 11.

²³ Submission from the National Human Rights Commission of Nigeria.

²⁴ Ibid.

²⁵ Submission from Associazione Comunità Papa Giovanni XXIII.

benefits from their assertion. Conversely, with collective rights such as self-determination or development, although the right may be held by a people, its exercise must ultimately serve the interests of individual members.

21. The interdependence of the individual and collective dimensions of the right to development becomes more evident when illustrated with specific rights provisions. For example, while the right to health is an individual right, its full realization is deeply connected with a nation's development policies, which are collective in nature.²⁶ Similarly, the right to education concerns not only individual access to schooling but also the availability and quality of educational infrastructure, which are products of collective investment and policy.²⁷ The collective dimension of the right to development adds value through an acknowledgment that individual empowerment often depends on broader social, economic and cultural advancements. Development projects, such as building infrastructure or improving public health systems, illustrate how collective action can lead to the individual enjoying a higher quality of life. Furthermore, collective rights, such as those of Indigenous Peoples to maintain their cultural heritage or of workers to form unions, illustrate the necessity of the collective dimensions of the right to development. These rights often require group recognition and action for their realization, highlighting how the development of a community can enhance the capabilities and rights of its individuals.²⁸

22. The collective right to a healthy environment and the recent recognition of the right to a clean, healthy and sustainable environment serve as prime illustrations of the interdependence of individual and collective rights.²⁹ Individual health and well-being hinge on the community's right to an environment that can sustain life. This shared right secures the essentials of a healthy ecosystem – clean air, unpolluted water and productive soil – which, in turn, directly contribute to the well-being of each community member. The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) in Europe and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) enshrine these ideals, providing individuals and the public with entitlements to information disclosure, involvement in decision-making processes and legal remedies in environmental contexts.³⁰ These collective guarantees are pivotal in protecting individual environmental rights.

23. The scope of the right to development is recognized differently in different countries. Some acknowledge it solely as an individual right, while others prioritize the collective dimension. This diversity in recognition contributes to the ongoing debate and division surrounding the right to development, which is influenced not only by political factors but also by cultural differences.³¹ However, some States have adopted national and international development policies that recognize the interdependence of individual and collective dimensions by seeking a balance between the rights of individuals and those of people collectively.³²

24. In elaborating the interdependence of individual and collective rights in the conceptualization and operationalization of the right to development, it is recognized that balancing the individual's right to development with collective rights can lead to tensions

²⁶ See Benjamin Mason Meier and Ashley M. Fox, "Development as health: employing the collective right to development to achieve the goals of the individual right to health", *Human Rights Quarterly*, vol. 30, No. 2 (2008), pp. 259–355.

²⁷ See A.C. Onuora-Oguno, *Development and the Right to Education in Africa* (Cham, Switzerland, Palgrave Macmillan, 2018).

²⁸ See Isabella D. Bunn, "The right to development: implications for international economic law", *American University International Law Review*, vol. 15, No. 6 (2000), pp. 1425–1467. See also Obiora Chinedu Okafor, "A regional perspective: article 22 of the African Charter on Human and Peoples' Rights", in *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development* (United Nations publication, 2013), pp. 373 and 374.

²⁹ See [A/HRC/54/27](#).

³⁰ See, for instance, the Escazú Agreement, art. 5 (1).

³¹ Submission from Associazione Comunità Papa Giovanni XXIII.

³² Submission from Italy.

and conflicts, especially when resources are limited. Prioritizing individual rights in areas such as health care and education might unintentionally harm broader community interests or development goals. Conversely, focusing on collective development, such as economic initiatives or infrastructure, may negatively affect marginalized individuals or members of Indigenous communities, causing issues such as social displacement, environmental harm and loss of cultural identity.³³ Nonetheless, these tensions can be mitigated or resolved by ensuring the inclusive participation of all stakeholders in development processes, as prescribed in the Declaration on the Right to Development.

25. In situations in which there is a real or apparent conflict between an individual's right to development and the collective right of peoples to development, international human rights law provides guidance to establish admissible restrictions on the enjoyment and exercise of those rights. Limitations of rights are permitted under both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Under the International Covenant on Civil and Political Rights, only the individual rights to freedom of movement (art. 12), freedom to manifest religion or belief (art. 18), freedom of expression (art. 19), freedom of peaceful assembly (art. 21) and freedom of association (art. 22) are subject to limitations. It is now well settled that, for limitations of these individual rights to be considered legal, the limitation must be provided for by law, must be based on one of the grounds justifying limitations recognized by the relevant article of the Covenant, must pursue a legitimate aim and must be proportionate to that aim.³⁴

26. Although the grounds justifying limitations vary slightly among these provisions, they all include situations in which it is necessary to respond to a pressing public or social need. Examples include limitations of individual rights necessary to protect national security, public safety, public order, public health or morals, or the rights and freedoms of others. In such circumstances, international law permits the collective interests and welfare of society at large to outweigh the specific individual civil and political rights in question. Under the International Covenant on Economic, Social and Cultural Rights, all rights may be subject to limitations. Article 4 thereof prescribes that States parties to the Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the Covenant, the State may subject such rights only to such limitations as are determined by law only insofar as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

27. The jurisprudence of regional courts relating to Indigenous Peoples is especially useful in determining how such guidelines can serve to resolve tensions between the individual and collective dimensions of the right to development. In *Yakye Axa Indigenous Community v. Paraguay*, the Inter-American Court of Human Rights observed that, when Indigenous communal property and individual private property rights are in real or apparent contradiction, the American Convention on Human Rights itself and the jurisprudence of the Court provide guidelines to establish admissible restrictions on the enjoyment and exercise of those rights, that is: (a) they must be established by law; (b) they must be necessary; (c) they must be proportionate; and (d) their purpose must be to attain a legitimate goal in a democratic society.³⁵ It also observed that, "when they apply these standards to clashes between private property and claims for ancestral property by the members of Indigenous communities, the States must assess, on a case by case basis, the restrictions that would result from recognizing one right over the other".³⁶ In *Saramaka People v. Suriname*, the Inter-American Court used the same principles to determine that restrictions on the collective right to property of Indigenous Peoples are possible because article 21 of the American Convention on Human Rights stipulates that the use and enjoyment of property may be subordinated by law to the interests of society (for instance, in a case in which mining leases

³³ Submission from the National Human Rights Commission of Nigeria.

³⁴ Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights; see also the general comments of the Human Rights Committee on these articles.

³⁵ Judgment, 17 June 2005, para. 144; see also *Sawhoyamaya Indigenous Community v. Paraguay*, Judgment, 29 March 2006; and *Kaliña and Lokono Peoples v. Suriname*, Judgment, 25 November 2015.

³⁶ Judgment, 17 June 2005, para. 146.

for private actors are necessary for the welfare of wider society).³⁷ Although this jurisprudence attributes special importance to the communal property of Indigenous Peoples in view of its importance to their collective survival, it does provide guidance on resolving a general conflict between the individual and collective dimensions of the right to development.

28. Nevertheless, the 1986 Declaration on the Right to Development does not contain a provision on limitations. Considering that the right to development is principally the right to participate in, contribute to and enjoy development, and because what development entails varies according to the contexts and priorities of the rights holders, it is difficult, and perhaps impossible, to precisely articulate the permissible limitations that are specific only to this right. In addition, because development itself can be seen as “promoting the general welfare in a democratic society” or even the “interests of public order”, it is unclear how these objectives might be properly invoked as a limitation of the right to development. At the same time, the right to development exists only insofar as development is indivisible from and interdependent and interrelated with all other human rights and fundamental freedoms. Development policies and practices must therefore be consistent with all other human rights. With this in mind, it is clear that a limitation imposed by States on one of those other human rights in accordance with what is permitted under international law may directly lead to a limitation of the right to development as well. However, as the limitation of the other human right might be permissible under the relevant provisions of international law, there would be no inconsistency between the right to development and that other human right. It is for this reason that article 20 of the draft international covenant on the right to development stipulates that the enjoyment of the right to development may not be subject to any limitations, “except insofar as they may result directly from the exercise of the limitations on other human rights applied in accordance with international law”.³⁸ In the commentary thereto, it is explained that such a stipulation avoids prescribing any imprecise and ultimately unworkable limitations directly on the right to development, but it is acknowledged that the right may in practice still be limited if a State party imposes a limitation on some other human right in accordance with international law.³⁹

29. The Expert Mechanism therefore believes that, in case of conflict between an individual’s right to development and the collective right to development of a people, existing international law principles on limitations of human rights must be employed in line with the essence of article 20 of the draft international covenant on the right to development.

C. Participation

30. The right to development encompasses three substantive elements: participation, equality of development opportunity and self-determination. All three elements have individual and collective dimensions. The right of every human person and all peoples to participate in development, as incorporated in article 1 (1) of the Declaration on the Right to Development, is discussed above. Active, free and meaningful participation stands as a critical substantive element of the right.⁴⁰ It is recognized in article 2 of the Declaration that the human person should be the “active participant” and beneficiary of the right to development.

31. The Declaration on the Right to Development frames development as a comprehensive economic, social, cultural and political process aimed 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

³⁷ Judgment, 28 November 2007, para. 126.

³⁸ A/HRC/54/50, annex, art. 20.

³⁹ A/HRC/54/50/Add.1, commentary to article 20.

⁴⁰ Declaration on the Right to Development, second preambular para. and art. 2 (3).

benefits resulting therefrom”.⁴¹ States are enjoined to encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.⁴²

D. Equality and non-discrimination

32. Discrimination can be experienced individually and collectively. At least four levels of discrimination can be identified: (a) discrimination as targeted acts or policies against a specific background (individual or community); (b) discrimination as repeated acts or policies against a specific community; (c) discrimination as organized physical harm and injury; and (d) discrimination as deliberate negligence against an individual because of that individual’s background or against one community or several communities at a time when the general public enjoys an increased standard of protection. These various forms of discrimination underscore the need for an approach founded on the interdependence of individual and collective rights.

33. The equality and non-discrimination component of the right to development has individual and collective dimensions. The right to development is aimed at preventing discrimination against individuals and/or groups of people. Articles 5, 6 and 8 of the Declaration on the Right to Development address the issue of discrimination, whether targeted at individuals or collectives, by setting benchmarks for evaluating situations that might lead to isolated or widespread discriminatory practices. Specifically, article 5 outlines a framework for understanding discrimination, emphasizing the important role of the Declaration in confronting that issue.

34. The Declaration on the Right to Development also includes a reference to “equality of opportunity for development” as both an individual and a collective entitlement. It affirms this equality as “a prerogative both of nations and of individuals who make up nations” (sixteenth preambular para.). States have the right and the duty to formulate appropriate national development policies aimed 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 (art. 2 (3)). This implies equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.⁴³ As shown by those references to both individuals and entire populations, the right to development as set out in the Declaration is aimed at ensuring that development benefits are shared widely and fairly among all members of society. This advances human rights for all, bridging the gap between individual and collective rights.⁴⁴

E. Self-determination

35. Collective human rights, as exemplified by self-determination, are integral to the protection of individual rights, as no individual is an island separate from the community. The suppression of collective rights directly impinges upon individual liberties, a situation familiar to members of Indigenous Peoples, as their identities are inextricably linked with their collectives. Self-determination is an inherently collective right, with implications for individual rights as enshrined in international legal instruments. Article 1 (1) of both International Covenants on Human Rights stipulates that: “All peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.” The inclusion of the right to self-determination in both Covenants was seen as vital for realizing all other human rights. The Human Rights Committee has stressed that this right is of particular importance because

⁴¹ Ibid., second preambular para.; see also Flávia Piovesan, “Active, free and meaningful participation in development”, in *Realizing the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development* (United Nations publication, 2013).

⁴² Declaration on the Right to Development, art. 8 (2).

⁴³ See Iryna Berezchna and others, “Economy of equal opportunities: dream or necessity”, *Economics and Education*, vol. 6, No. 1 (2021), pp. 6–14.

⁴⁴ Submission from the National Human Rights Commission of Nigeria.

its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights.⁴⁵ It is telling that the very first paragraph of article 1 common to both Covenants relates to the right of peoples to self-determination and that all individual rights follow thereafter.

36. The Declaration on the Right to Development reinforces the principle that self-determination is an essential collective right. It asserts that the human right to development implies the full realization of the right of peoples to self-determination, which includes the exercise of their inalienable right to full sovereignty over all their natural wealth and resources (art. 1 (2)). This principle empowers nations and their citizens, as collectives, to oversee and utilize their natural resources. Originating in the decolonization movement, it was aimed at enabling newly sovereign States to manage their economies and resources without external influence. It reflects the dual focus of the right to development, on both individual autonomy and communal welfare.

37. The collective rights principle of self-determination inherent in the right to development is referenced in the United Nations Declaration on the Rights of Indigenous Peoples, in which it is noted that Indigenous Peoples have “suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests” (sixth preambular para.). Articles 3 and 4 of the Declaration affirm the right of Indigenous Peoples to self-determination and autonomy in matters relating to their internal affairs. The Declaration also emphasizes their right to improve their economic and social conditions without discrimination, in particular in the areas of education, employment, housing, health and social security.

38. Self-determination is, therefore, a cornerstone of collective rights for Indigenous Peoples. It encompasses their right to freely determine their political status and pursue their economic, social and cultural development. These rights recognize the collective nature of Indigenous communities, their distinct cultural heritage and their connection to their ancestral lands threatened by globalization, assimilation policies and external influences. The collective rights provisions of the Declaration on the Right to Development and the Declaration on the Rights of Indigenous Peoples ensure that Indigenous Peoples as distinct communities can maintain and transmit their cultural practices, languages and knowledge systems to future generations.

39. It may be said that the right to self-determination is a collective right essential for the fulfilment of individual human rights, with the individual being the primary recipient of these rights.⁴⁶ The right to development hinges on the right to self-determination, which is more pertinent to collectives than to individual entities. In situations in which basic rights, such as the rights to health, water and food, are not fulfilled, both individual and community well-being are affected. For development to be meaningful and comprehensive, communities must be able to exercise their right to self-determine their development paths, in particular when basic human rights are lacking. The ultimate aim of the right to development is achieving freedom, which is the foremost goal and the principal means of development. The right to development empowers individuals to lead lives that they choose and find meaningful, directed by their own values. It is closely associated with freedom and self-determination, which are crucial for personal autonomy. Self-determination, therefore, extends beyond collective rights to involve the individual’s autonomy.⁴⁷ However, although individual freedom is essential to asserting personal autonomy, an individual’s full potential can be realized only in the context of collective social freedoms.

⁴⁵ General comment No. 12 (1984) on the right of self-determination, para. 1.

⁴⁶ See Cara Nine, *Sharing Territories: Overlapping Self-Determination and Resource Rights* (Oxford, Oxford University Press, 2022).

⁴⁷ See Ulrike Barten, *Minorities, Minority Rights and Internal Self-Determination* (Cham, Switzerland, Springer International Publishing, 2015).

F. Peoples' rights

40. Peoples are recognized as rights holders in several international instruments. It is a notion that is intricately connected with the concept of “nations” in international law, as opposed to the political concept of “States”.⁴⁸ The Charter of the United Nations begins with the words “We the peoples of the United Nations” and identifies that an objective of the United Nations is “to employ international machinery for the promotion of the economic and social advancement of all peoples” (preamble). A principal purpose of the Organization, as stipulated in article 1, is “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples”.⁴⁹ Article 55 of the Charter stipulates that, “with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: higher standards of living, full employment, and conditions of economic and social progress and development; solutions of international economic, social, health, and related problems ...; and universal respect for, and observance of, human rights and fundamental freedoms for all”. All States, under article 56 of the Charter, are obliged, individually and jointly, in cooperation with the Organization, to realize these purposes.

41. In addition to the recognition of the right of all peoples to self-determination in the International Covenants on Human Rights, the Declaration on the Right to Development and the Declaration on the Rights of Indigenous Peoples, the right of all peoples to development is also recognized in the latter two instruments. However, the term “peoples” is not defined in any of these instruments. This has understandably led to a lack of clarity over what the term means or whether there can even be a universal definition. It has been noted, for example, that the United Nations concept of “peoples” is fluid, adapting to the changing landscape of politics, society and culture influenced by globalization, migration and technology.⁵⁰

42. The Mechanism believes that there can be no one-size-fits-all definition of “peoples” precisely because the specific contexts in which the associated rights are claimed or violated can be different. For instance, the claim to independence in the context of colonization was based on the recognition of the entire population of the colonized territory as a “people”.⁵¹ However, in many independent States, there are different “peoples” based on different identities of nationhood. In *Reference re Secession of Quebec*, the Supreme Court of Canada observed as follows:

It is clear that “a people” may include only a portion of the population of an existing State. The right to self-determination has developed largely as a human right and is generally used in documents that simultaneously contain references to “nation” and “State”. The juxtaposition of these terms is indicative that the reference to “people” does not necessarily mean the entirety of a State’s population. To restrict the definition of the term to the population of existing States would render the granting of a right to self-determination largely duplicative, given the parallel emphasis within the majority of the source documents on the need to protect the territorial integrity of existing States, and would frustrate its remedial purpose.⁵²

⁴⁸ James Summers, *Peoples and International Law*, 2nd rev. ed. (Leiden, Kingdom of the Netherlands, Brill Nijhoff, 2014), p. 7; and Gudmundur Alfredsson, “Peoples” (2022), in *Max Planck Encyclopedia of Public International Law*, Anne Peters and Rüdiger Wolfrum, eds. (Oxford University Press).

⁴⁹ See also articles 73, 76 and 80 of the Charter of the United Nations, which are related to the trusteeship system.

⁵⁰ Submission from Associazione Comunità Papa Giovanni XXIII.

⁵¹ *Western Sahara, Advisory Opinion, I.C.J. Reports 1975*, p. 12; *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South-West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 16; and *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136.

⁵² Case No. 25506, Judgment, 30 September 2006, para. 124.

43. The same principle applies in the context of the right to development, in particular as the right to self-determination includes the right of peoples to freely pursue their development. As with the right to self-determination, whether a group qualifies as a people requires a case-by-case analysis. If the right to development of the entire population of a State is violated, for instance as a result of illegal unilateral coercive measures, occupation or predatory loan conditionalities, the entire population qualifies as a “people”. If the right to development of specific groups qualifying as a people within an existing State is violated, the use of the term is not restricted to the entire population.

44. It is therefore far more useful to identify the key characteristics that may qualify a group as a “people”. Broadly speaking, in international law, the term “peoples” denotes distinct human collectives bound by shared cultural, ethnic, linguistic or historical traits, each possessing a collective consciousness.⁵³ There is sparse, although important, guidance available in this regard.

45. In the final report and recommendations of the International Meeting of Experts on further study of the concept of the rights of peoples, hosted by the United Nations Educational, Scientific and Cultural Organization on 27–30 November 1989, for the purposes of peoples’ rights, the following were identified as among the characteristics inherent in a description (but not a definition) of a “people”:

(a) A group of individual human beings who enjoy some or all of the following common features: (i) a common historical tradition; (ii) racial or ethnic identity; (iii) cultural homogeneity; (iv) linguistic unity; (v) religious or ideological affinity; (vi) territorial connection; and (vii) common economic life;

(b) The group must be of a certain number, which need not be large (e.g. the people of micro-States) but which must be more than a mere association of individuals within a State;

(c) The group as a whole must have the will to be identified as a people or the consciousness of being a people, allowing that groups or some members of such groups, though sharing the foregoing characteristics, may not have that will or consciousness; and possibly

(d) The group must have institutions or other means of expressing its common characteristics and will for identity.

46. The African Commission on Human and Peoples’ Rights relied upon the guidance set out in the final report and recommendations in its judgment in *Kevin Mgwangwa Gunme et al. v. Cameroon*, acknowledging Southern Cameroonians as a distinct people based on their shared history, language and identity, which differentiated them from wider Cameroonian society.⁵⁴

47. In a study conducted under the aegis of the International Commission of Jurists in 1972, particular importance was placed on the consciousness of the group to be identified as a people.⁵⁵

48. In *Centre for Minority Rights Development (Kenya) and Minority Rights Group on behalf of Endorois Welfare Council v. Kenya*, the then Government of Kenya contended not only that the Endorois were not Indigenous, but also that they were not a “people”. After noting the absence of a universal definition of “people” and its own initial hesitation in interpreting that term, the African Commission on Human and Peoples’ Rights observed that “there is an emerging consensus on some objective features that a collective of individuals should manifest to be considered as ‘peoples’, viz. a common historical tradition, racial or

⁵³ See Azar Gat, *Nations: The Long History and Deep Roots of Political Ethnicity and Nationalism* (Cambridge, United Kingdom, Cambridge University Press, 2012).

⁵⁴ Communication No. 266/03, Decision, 27 May 2009; see also Serges Djoyou Kamga, *The Right to Development in the African Human Rights System* (Abingdon, United Kingdom, Routledge, 2018).

⁵⁵ *The Events in East Pakistan, 1971: A Legal Study by the Secretariat of the International Commission of Jurists* (Geneva, 1972), p. 70; see also I.O. Kresina and O.V. Kresin, “The people as a subject of international law”, *Jus Gentium: Journal of International Legal History*, vol. 3, No. 2 (2018), pp. 573–598.

ethnic identity, cultural homogeneity, linguistic unity, religious and ideological affinities, territorial connection, and a common economic life or other bonds, identities and affinities they collectively enjoy ... or suffer collectively from the deprivation of such rights”.⁵⁶ Clearly, all these features need not be cumulatively present in each case, nor is the presence of only one or two indicative of a people. For instance, due to colonization, some peoples may have lost their traditional language. This fact alone does not disqualify them. Similarly, the fact that individuals from many countries practise a common religion or speak a similar language does not make them a people. In addition, some features may have more weight than others in a given case. For example, a territorial connection with traditional lands and natural resources is especially important for Indigenous Peoples and their very survival.

49. This reinforces the importance of a case-by-case approach. It is essential not to conflate all “groups” with “peoples”, the latter being the recognized rights holders under international law. For instance, religious minorities in a State or local communities may or may not qualify as a distinct people, depending on their context. In circumstances in which they may not qualify, however, it would not necessarily follow that they cannot exercise or claim their right to development as a group, even though they may not be able to do so as a people. Common interests and the effects of development policies or practices that may affect different individuals of such communities cumulatively may justify common demands for the realization of their right to development, such as through class action suits.

50. In sum, the communal aspect of the right to development and the inclusion of “peoples” as rights holders are firmly recognized in international law, yet the precise delineation and practical enforcement of this right demands diligent discernment coupled with a dedication to fairness and inclusivity.⁵⁷ Despite the absence of a universal definition of “peoples”, international and regional courts have had some success in applying the key characteristics of “peoples” on a case-by-case basis to settle disputes.

G. State obligations

51. Apart from individuals, three categories of actors play key roles in realizing the right to development: States, international organizations and non-State actors. Within the category of States are individual States and States acting collectively as part of multilateral systems. Within the category of international organizations are United Nations agencies, regional organizations, international financial institutions and public development banks. The category of non-State actors includes businesses, institutional investors, credit rating agencies and civil society organizations.⁵⁸ The discussion in the present section is focused on the obligations of States, although it is recognized that multiple actors are involved in realizing the right to development.

52. States have obligations to respect, protect and fulfil the right to development at three levels: (a) collective obligations in global and regional partnerships; (b) individual obligations insofar as they adopt and implement policies that affect persons not strictly within their jurisdiction; and (c) individual obligations insofar as they formulate national development policies and programmes affecting persons within their jurisdiction.⁵⁹ Crucially, States are obligated to engage in international cooperation to fulfil the right to development. States are obligated to realize the right to development, as it is foundational to realizing human rights as a whole.⁶⁰

53. The Declaration on the Right to Development mandates that countries cooperate to foster development and remove barriers to its achievement. It also contains a call for the creation of a new global economic system rooted in sovereign equality, mutual dependence and cooperation. The principle of self-determination emphasizes the need for democratization and the formation of fair international mechanisms, ensuring that all nations

⁵⁶ Communication No. 276/03, Decision, 4 February 2010, para. 151.

⁵⁷ Submission from the Ombudsman of Argentina.

⁵⁸ See [A/HRC/54/27](#).

⁵⁹ [A/HRC/15/WG.2/TF/2/Add.2](#), para. 16; and [A/HRC/45/21](#), para. 34.

⁶⁰ See Daniel Aguirre, *The Human Right to Development in a Globalized World* (Abingdon, United Kingdom, Routledge, 2016).

and peoples have a meaningful role in decisions related to economic, financial and monetary issues.⁶¹

54. States' obligation to facilitate the right to development extends beyond their own territories and includes influencing global policies and decisions within international organizations. States are required to initiate actions, both individually and collectively, to design international development policies that ensure the full realization of the right to development. In accordance with article 3 (1) of the Declaration on the Right to Development, States have the primary responsibility for creating national and international conditions favourable to the realization of the right to development. Consequently, actions or policies backed by States that result in creating global conditions hindering the right to development would amount to a violation of their duties.⁶²

55. Although the right to development requires States to cooperate to achieve economic, social and cultural development, it is recognized that this obligation may sometimes clash with the principle of State sovereignty and the prioritization of national interests. The external accountability mechanisms provided for in international treaties and bodies must be effective and respected by States parties, which is not always the case.⁶³ Moreover, global economic systems and the actions of non-State actors, such as multinational corporations, can have a significant impact on the right to development, raising the issue of accountability among actors other than States.⁶⁴ Both the home States and the host States of corporations have obligations to ensure, through appropriate regulation, that corporate abuse is prevented and remedied.⁶⁵

56. States also have a responsibility under international human rights law to recognize and address individual and collective discrimination and develop protective human rights frameworks and action plans. The right to development imposes an obligation on States, individually and collectively, to create conditions favourable to its realization and refrain from introducing policies that undermine its realization. States have a duty to cooperate with each other not only to actively promote the right to development but also to eliminate obstacles to development. States are also obligated to realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights.⁶⁶ The collective aspect of the right to development suggests that the international community is obliged to cooperate, or act collectively, with individual States in achieving the right to development at a national level.

H. Rights of States

57. The traditional view of international human rights law is centred on the rights of individuals against the State, positioning States primarily as duty bearers. However, in the context of the right to development and, specifically, the obligation of States to act through international cooperation in realizing the right, there is a compelling argument for recognizing that States also have certain rights under international human rights law. To be sure, States do not, on their own, have the human right to development. Human rights holders are always individuals and peoples. However, under international human rights law, States do hold certain derivative rights on behalf of their citizens and peoples.

58. As entities acting on behalf of their citizens or peoples in the international realm, States have a vested interest in upholding international human rights standards. This

⁶¹ N.J. Udombana, "The third world and the right to development: agenda for the next millennium", *Human Rights Quarterly*, vol. 22 (2000), p. 782.

⁶² Submission from the Islamic Republic of Iran.

⁶³ The African Charter on Human and Peoples' Rights also provides, in article 22, that the right to development is claimable by "peoples".

⁶⁴ See Maxwell Miyawa, "The right to development and non-State actors: rethinking the meaning, praxis and potential of accountability of non-State actors in international law", *Transnational Human Rights Review*, vol. 3 (2016).

⁶⁵ A/HRC/54/50, annex, art. 11.

⁶⁶ Declaration on the Right to Development, art. 3 (3).

representative capacity extends to asserting rights on the international stage to protect and ensure the welfare of their citizens.

59. Under international law, States are recognized as having rights in many different areas. Some of these rights are noteworthy, specifically in the context of international human rights law. The rights of States to territorial integrity and political independence, as enshrined in the Charter of the United Nations, are intrinsically connected with the human rights of individuals and peoples within such territories, including the rights to self-determination and development. These rights are essential for maintaining the international legal order and preventing unlawful interventions by other States or international organizations that may violate human rights, including the right to development. Indeed, article 3 (2) of the Declaration on the Right to Development stipulates that “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”. International human rights treaties, such as the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, provide for mechanisms for inter-State complaints, which enable States to bring claims against other States for violations of human rights obligations, thereby recognizing States as rights holders that can seek redress for breaches of international law. The principle of diplomatic protection also allows States to espouse claims on behalf of their nationals who have suffered injury abroad.⁶⁷ When a State acts on behalf of its citizens and peoples in international forums, it can leverage its resources, diplomatic channels and legal expertise to address violations more effectively than individuals or peoples might be able to on their own.

60. Under international human rights, States have significant obligations to uphold and protect the fundamental rights of their citizens. By becoming parties to international treaties, States assume obligations and duties under international law to respect, protect and fulfil human rights. These obligations are not merely theoretical; they have practical implications for the well-being of individuals. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. This includes respecting the rights of their own citizens and those within their jurisdiction. The obligation to protect requires States to safeguard individuals and groups against human rights abuses. This extends to preventing violations by third parties, such as private actors or non-State entities. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. This includes creating an enabling environment through legislation, policies and institutions that promote and protect human rights.

61. In fulfilling these obligations, States certainly hold derivative rights on behalf of populations within their jurisdiction. These derivative rights may be exercised through claims against international organizations or transnational actors whose policies or practices obstruct the enjoyment of the right to development of individuals within the State. States acting on behalf of all individuals and peoples within their jurisdiction have the authority to demand respect for the right of those individuals and peoples to development from other States and international entities, as well as the ability to protect and fulfil this right. The derivative rights of States are pertinent, given the emphasis in the Declaration on the Right to Development on the role of international cooperation and the global community’s responsibility to uphold human rights and support nations in distress.

62. Indeed, the Declaration on the Right to Development explicitly recognizes derivative rights for States. Under article 2 (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”. This formulation makes clear that the State is a holder of the right to development

⁶⁷ The judgment of the International Court of Justice in *LaGrand (Germany v. United States of America)* illustrates how States can assert rights to protect their citizens and uphold international norms. See *LaGrand (Germany v. United States of America)*, Judgment, I.C.J. Reports 2001, p. 466.

as the agent “of the entire population and of all individuals”.⁶⁸ The right of States is thus exercisable by the State against those with the power to deny or constrain the capacity of the State to formulate national development policies that benefit the entire population and all individuals.⁶⁹ States are never entitled to exercise this right against the interests of, or to the exclusion of, their own population and individuals, since such formulation is to be done “on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom”.⁷⁰

63. The State here acts as the “medium through which the rights of individuals are able to be effectively asserted vis-à-vis the international community”.⁷¹ This provides leverage for States to collaborate on right to development-related initiatives in areas such as climate change, development financing or gender equality, leveraging their rights to participate in international decision-making processes and advocate on behalf of their populations for global collective action.

64. The derivative right of States becomes fully apparent in the context of the obligation of international cooperation under the Declaration on the Right to Development. Article 3 (3) of the Declaration stipulates that “States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfil 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.” The duty of a State to cooperate with others necessarily implies a corresponding right for other States. If obstacles to the realization of the right to development within a State are created as a result of the violation of the duty to cooperate by other States, either directly or through international organizations, only the State may feasibly demand respect for the right to development on behalf of its citizens.

65. In the narrowly defined contexts outlined above, recognizing States as rights holders under international human rights law is not the same as stating that they have human rights, nor does it diminish the importance of the human rights of individuals and peoples. Instead, it complements the existing human rights framework by empowering States to advocate for and protect the rights of their citizens more effectively. Collective rights are “reflective of the extent to which we live in communities and to which our fate as individuals is bound up with the fate of the others in whose social context we find ourselves”.⁷²

III. Conclusion

66. **The right to development facilitates the achievement of all other human rights because of three distinct attributes. The first is the holistic approach that it brings to human rights in affirming development as encompassing not only economic, social and cultural rights but also civil and political rights. The second is the balance that it strikes between individual and collective rights, reinforcing the interdependence of the two. The third is the affirmation of the three levels of obligations of States, namely, internal, extraterritorial and collective. These attributes of the right to development reflect the interconnectedness and indivisibility of rights and the essential role of both national actions and international cooperation in achieving equitable development and human rights for all.**

67. **Most significantly, the right to development agenda champions a comprehensive model of development that values the intricate relationship between individual and collective rights. This model posits that individual freedoms and societal advancement**

⁶⁸ Anne Orford, “Globalization and the right to development”, in *Peoples’ Rights*, Philip Alston, ed. (Oxford, Oxford University Press, 2001), p. 137.

⁶⁹ Ibid. See also Mihir Kanade, *The Multilateral Trading System and Human Rights: A Governance Space Theory on Linkages* (Abingdon, United Kingdom, Routledge, 2018), p. 208.

⁷⁰ Declaration on the Right to Development, art. 2 (3). See also [A/HRC/48/63](#), para. 28.

⁷¹ Philip Alston, “The shortcomings of a ‘Garfield the Cat’ approach to the right to development”, *California Western International Law Journal*, vol. 15, No. 3 (1985), p. 512.

⁷² Ibid., p. 516.

are not competitive but complementary. The right to development asserts that personal liberties, such as access to education, health care and cultural engagement, are integral to societal growth. Conversely, it also asserts that collective welfare, such as ensuring peace, sustainable development and a healthy environment, is vital if individuals are to enjoy their rights fully. Consequently, the right to development agenda advocates for far-reaching and multidimensional development policies and programmes, transcending mere economic growth to include the enhancement of the social, cultural and political dimensions of life. This expansive view compels the crafting of policies that honour the full gamut of human rights, ensuring that development is equitable, inclusive and participatory.

68. Ultimately, the right to development agenda reflects a development philosophy that prioritizes human dignity, freedom and human potential. It represents a call for collaborative efforts to forge systems through which development gains can be broadly shared and managed in a way that safeguards the ability of current and future generations to meet their own needs. When development is approached holistically as both an individual and collective human right, it fosters an environment where individuals and communities can contribute to, and benefit from, the shared progress of humanity.
