

UNITED NATIONS

Centre for Human Rights

Global Consultation on the Realization of the
Right to Development as a Human Right

Geneva, 8 - 12 January 1990

"Intermediate structures and groups in the context of
development as a human right"

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Draft: Not to be quoted

Intermediary structures and groups in the context of development as a human right

(Global consultation on the realization of the right to development as a human right at the Center for Human Rights, Geneva, 8.-12.1.1990)

A. The level of formal norm creating processes

1. The UN Declaration on the Right to Development

The concept of "intermediary groups", is an analytical concept which allows to identify "peoples" as holders of a right to development by reference to smaller operational units (as distinguished from or in addition to ethnic, language or religious groups) which may, besides their functions as organizations of self-help and self-reliance, also assume a participatory role in developing constitutional orders and promoting human rights. The some total of "intermediary groups" in a given state constitute the so-called "mediating structure".

The notion of "mediating structures" was introduced into the human rights discourse of the Working Group of Governmental Experts on the Right to Development by the US delegate Peter L. Berger. His point of reference was the right to development as a peoples' right. His intention was to clarify the notion "peoples" and to let "peoples" have a function in the development of democracy.

While according to Art. 8 of the "Declaration on the Right to Development" States should encourage **popular participation**, the mode of its implementation was not specified, neither was the meaning of "peoples" defined in any way. In the discussion in the "Working Group of Governmental Experts" the United States delegate

took a common-sense approach of relying for the meaning of "peoples" on empirical evidence and on what the sociologist calls "mediating structures". He addressed as holders of a "peoples' right to development" various forms of "collectivities other than the State" which, as he pointed out, were "crucial for development: Even if a system does not permit private enterprise by individuals, the economic effort of families, villages, various traditional groupings (such as the groupings of kinship, tribe or ethnicity) and more modern forms of association (cooperatives and the like) are the true carriers of development. In sociological parlance, all such collectivities have been subsumed under the category of 'mediating structures'- that is, collectivities that stand between and thus mediate between the individuals and the macro-structures of modern States. These 'mediating structures' are essential to development under any system, be it a market or command economy; language which obscures their role ipso facto, obscures the real dynamics of development; by the same token, and very importantly, if one talks about collective rights in the area of development, one must also bear these collectivities in mind."¹

This approach relies - as he said on an other occasion - on the "deeply communal, non-individualistic character" of non-Western cultures as well as on the mediating structures as "the soil from which political democracy may grow".²

Berger's position recalls to one's mind liberal theories of constitutionalism, such as von Hayek's idea of a spontaneous social order³. Although Berger is suggesting for collectivities what civil rights do for individuals: namely to create freedoms of action, he does not go as far as to reject etatism altogether in

¹ Cf. General United States approach: Contribution by Prof. Peter L. Berger, United States Expert, 25 November 1981; E/CN.4/AC.34/WP.13 (26 November 1981). Italics are mine.

² Cf. P.L. Berger, Democracy in Today's World, in: Dialogue 2/1984, 2 ff. (4,6).

³ J. Gray, Hayek on liberty (2nd ed., 4.) 27ff.

the promotion of human rights, as e.g. Richard Falk suggests, separating the people from the state and entrusting them a legitimacy of their own⁴.

In any case the UN-Declaration on the Right to Development does not explicitly refer to "mediating structures" or "intermediary groups"; nor does it exclude the promotion of a legal standing of "intermediary groups" as holders of a right to development in the context of the promotion "of popular participation in all spheres as an important factor in development and in the full realization of human rights" (Art.8 para.2 of the Declaration).

As regards the realization of the right to development the Working Group recommended to study regional and inter-regional instruments, which have a bearing on the enhancement of the right to development and to identify and study specific areas related to the right to development⁵. The most important regional instrument to study is the African Charter of Human and Peoples' Rights, which explicitly provides for a peoples' right to development. Specific areas related to the right of development to be studied are the areas of development cooperation and its institutionalization on the one hand, and popular participation in development and its enhancement on the other.

2. The inclusion in the Banjul Charter of peoples' rights in addition to human rights pertaining to individuals was, we have been told, a concession to the demands of socialist oriented member states of the Organization of African Unity, that the Banjul Charter should also provide for collective rights. It was part of the compromise that the notion of "peoples" was not defined.⁶

⁴ Cf. R. Falk, Human Rights and State Sovereignty (1981), 189 f.

⁵ Cf. Report of the Working Group of Governmental Experts on the Right to Development of 29 January 1989: E-CN.4/1988/10.

⁶ See W. Benedek, Peoples' Rights and Individuals' Duties as Special Features of the African Charter on Human and Peoples' Rights, in: Ph. Kunig/W. Benedek/C.R. Mahalu, Regional Protection

As regards the meaning of "people" in the African Charter on Human and Peoples' Rights, the founding fathers, it is said, were guided by a considerable deference to sovereignty and other state rights and that they did not intend to endow peoples or their subgroups with an independent legal standing and legitimacy of their own⁷.

Yet, the introduction of the notion of a "peoples' right to development" into the human rights discourse constitutes in any case an innovative effort in securing the promotion and protection of human rights and development uno actu.

"The right to development" is a "promotional right" par excellence, i.e. its meaning and function will have to evolve and to be developed in practice.

According to Part II of the Banjul Charter the African Commission on Human and Peoples' Rights (Commission) shall ensure the protection of human and peoples' rights under conditions laid down by the present Charter (Art.45). The Banjul Charter allows that communications and complaints with regard to the violation of the Banjul Charter may be communicated to the Commission by States and other applicants, without any further specification. In its Preamble the Banjul Charter refers to the "virtues of African historical tradition and values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights". There is an ongoing debate to what extent African historical traditions and values constitute a hinderance to nation building and development. At the same time there is also an increasing awareness that the traditional African social and normative culture, in particular a "communal" approach to questions of law and society, constitute an indispensable

of Human Rights by International Law: The Emerging African System (Baden-Baden 1985), 59-94, 60, 63.

⁷ Cf. R.N. Kiwanuka, The Meaning of "People" in the African Charter on Human and Peoples' Rights, in: AJIL, Vol.82 (1988), 80ff. (83 f.).

factor of institution building and development in Africa.*

If the provision of a peoples' right to development, as enshrined in the Banjul charter, is being explored as an evolutionary concept and interpreted and developed in the light of the specific African socio-cultural milieu and in response to the everyday needs of those directly concerned, as ultimately the driving force for the formation of law⁹, it may well lend itself to provide a basis for enhancing "popular participation in development"¹⁰, in respect to which also the concept of "intermediary groups" may gradually gain ground.

The Banjul Charter does not contain a direct indication to this effect; in Art.60, however, the Commission is asked to draw inspiration from international law on human and peoples' rights in general and from the provisions of various African instruments on human and peoples' rights in particular. In Art.61 the Commission is asked to take into consideration as subsidiary means to determine the principles of law, other general or special international conventions, laying down rules expressly recognized

* Cf. African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation (AAF-SAP, UN-ECA, E/ECA/CM. 15/6/Rev.3, 10th April 1989, para. 34f.: "Establishing a Self-Sustaining Process of Economic Growth And Development" and A. Allott, *The Limits of Law* (London 1980).

⁹ Cf. Max Weber, *Rechtssoziologie*, Hgg. und eingel. von Johannes Winckelmann (2. Aufl., Neuwied 1967), 243: "The rational-systematic pattern of legal thought may induce the legal mind to dissociate itself largely from the everyday needs of those who are most affected by the law, and so does a lack of their concrete substantiation.

The power of the unleashed dictates of pure logics in legal theory and in practice under its sway may in effect largely eliminate the demands of those directly concerned as the driving force for the formation of law." (Translation K.G.) and K. Ginther, *Re-defining international law from the point of view of de-colonization and development and African regionalism*, *Journal of African Law*, Vol.26 (1982), 49-67.

¹⁰ See A.B. Durning, *Action at the Grassroots: Fighting Poverty and Environmental Decline*, *World Watch Paper 88* (January 1989/Massachussetts).

by memberstates of the Organization of African Unity. These provisions contain a broad reference to international law as it is presently developed on a regional, universal and inter-regional level.¹¹

The promotion of human rights in general and of a people's right to development in particular require that the idea of human rights be related to the social fabric and body politic of given states and ultimately to their normative culture and the fundamental categories of social ethics on which any development of social and legal institutions will depend, and on which any effort to promote human rights and to develop constitutional orders will have to rely.

The insertion of "**peoples' rights**" in the Banjul Charter offers an opportunity to strengthen the role of people in developing constitutional orders in SSA as part of the promotion of human and peoples' rights in Africa. As envisaged by the Banjul Charter the promotion of human and peoples' rights will have to draw from the law and the legal thought developed by other international institutions, regional, inter-regional and global.

¹ See for more details: K. Ginther, The Promotion and Protection of Human Rights under the Banjul Charter: Peoples' Right to Development and the Position of "Intermediary Groups", in: Lothar Gündling (ed.), Human Rights - Peoples' Rights. Contributions on the African Charter, Marburg 1990 (forthcoming).

B. Other "specific areas related to the right to development" (E/CN.4/1988/10): the field of inter-regional and regional development cooperation in support of popular participation

1. The EC's (and the OECD's) emphasis on decentralization and popular participation in development and the Madrid Appeal of the Council of Europe

A line similar to the one taken by Peter L. Berger in the "Working Group on the right to development" is being followed by the Commission of the European Communities, emphasising decentralization and poli-centric development cooperation with the group of the ACP-states and stressing in this respect the importance of rural communities, local collectives, unions and cooperatives as well as the support for spontaneous initiatives at the grassroots level. Also the European Parliament came out in support of an active involvement of the rural populations in their own development by encouraging them to form groups, and at the same time it regretted the general lack of recognition of the major role played by peasant organizations and cooperatives at all stages of development.¹²

The involvement of grassroots communities and self-help-organizations as mediating structures has already been an objective of the Lomé III Convention.¹³ The promotion of "popular participation" in development might well experience an upgrading in the course of the negotiations of Lomé IV¹⁴ and become a major

¹² See the Report of the Committee on Development and Cooperation of the European Parliament, on Cooperatives, 4th October 1988, Doc.A-2-205/88, 15 ff.

¹³ Cf. Arts.30, 122 and 185.

¹⁴ See: Ouverture Solennelle des Négotiations pour la nouvelle Convention, ACP-CEE, Intervention du Président du Conseil, 12 oct. 1988, SN 3519/1/88 rev.1; the Final Declaration of the 12 Annual Meeting of the ACP-EEC Economic and Social Interest Groups, Brussels, 7 Dec. 1988 and H. Heilu, involving peasant organisations in Lomé IV, in: LOME breving no. 8/April 1989. See also the opening of the negotiations for Renewal of the ACP-EC Convention/Luxemburg, 12 October, 1988. Speech by Mr. Lorenzo

subject of the "policy dialogue" under the new Lomé Convention.¹⁵
OECD..... *Declaration of principles 27 Dec. 1989 → participation, action groups*
Also the "Madrid Appeal", June 1988, contains a plea for self-reliant development and the promotion of local interest and self help groups.¹⁶

2. The African Alternative Framework to Structural Adjustment Programmes (AAF-SAP) for Socio-Economic Recovery and Transformation, adopted on 10th April 1989.¹⁷

Africa's economic crisis is characterized by the disintegration of the productive and infrastructural facilities. Orthodox adjustment programmes can, however, not achieve their objectives without addressing the fundamental structural bottlenecks. This led the ECA to search for a viable conceptual and practical framework for structural adjustment in keeping with longterm development objectives, in the course of which the AAF-SAP was worked out and adopted by a joint meeting of African Ministers of Economic Planning and Development and the Ministers of Finance held in Addis Abeba on 10th April 1989.

In the present context it suffices to stress that the AAF-SAP extends its critique of present development efforts to the neglect of the informal sector (para.11), that it emphasizes a human centred development (para.34 ff.) and postulates implementation strategies, based on a genuine and active partnership between the government and the people through their various institutions and organizations at national, local and grassroots levels.

Natali, Vice-President of the Commission of the EC.

¹⁵ On "policy dialogue" in general see: Is Lomé Policy Political? in: The Courier No.105 (Sept./Oct. 1987), 6 ff.

¹⁶ Cf. The Madrid Appeal of the European Conference of Parliamentarians and Non-Governmental Organisations on North-South Interdependence and Solidarity, held 1-3 June 1988, under the auspices of the Parliamentary Assembly in pursuance of its Resolution 878 (1987) of the Council of Europe.

¹⁷ E/ECA/CM.15/6/Rev.3

Democratization and popular participation should according to AAF-SAP encourage the people to increase the development efforts (para.123 ff.).

Popular participation has become the key concept of development strategies both of developing countries' governments and their cooperative partners.

For February 1990 a major international conference on "Popular Participation in Africa's Economic Recovery and Development" will be held. It is hoped that this conference will re-enforce at the grassroots level the **African people's right and ability to achieve sustainable development** and to generate a spirit of solidarity and self-reliance. In announcing the conference, Professor Adedaji, the Executive Secretary of the ECA, called it "an exciting opportunity to work together with African grassroots organizations in finding innovative ways of harnessing the enormous energies of Africa's people in bringing the continent's crisis to an end".¹⁸

According to its founding fathers the **AAF-SAP** should constitute a **basis for a constructive policy dialogue** between African countries and their development partners in the implementation and financing of **human centred country programmes**, which should imply **full democratization** of all aspects of economic and social activities and - despite the peculiar characteristics of each country programme - **an intensified inter-country cooperation**.¹⁹

With an apparent shift in development theory and strategy towards a more bottom-up strategy of development with emphasize on popular participation and grassroots initiatives new walks and fields of research will require new modes of production of knowledge and a new paradigm of international relations and law, according to

¹⁸ Cf. Africa Press Clips, Vol.2, No.1 (1989), 15. (Africa Recovery)

¹⁹ Cf. Adebayo Adedaji, Foreword to AAF-SAP, E/ECA/CM.15/6/Rev.3, iii.

which "people matter"²⁰, maybe at times more than states. ²¹

For this approach to become theoretically meaningful and practically relevant in respect to group rights to development, the field of grassroots activities and various modes of popular participation need to be adequately researched.

3. Popular participation in development: parallelism of state and people and the role of intermediary groups

²²

While popular participation in developement is beeing promoted through various means and messures, to a large extent on a non-governemental level, respective state governements become concerned and react with apprehension, seeking to re-assert control and thus most likely to frustrate popular participation proper.

At this point the "inner dimension" of a peoples' right to development³¹ materializes, when the "life" of organizations of community development, self-help and popular participation needs to be protected and guaranteed, and may even become the subject of the "development policy dialogue" and/or formal (Banjul Charta) or informal (e.g.Lomé Process) complaint procedures.

Participation is understood here in its active form. While in its passive form participation amounts to a managerial technique, the former, the active form, is a technique "to facilitate" or

²⁰ Cf. R. Preiswerk, Could We Study International Relations as if People Matter?, in: Institut Universitaire de Hautes Etudes Internationales (ed.), International Relations in a Changing World (Leyden, 1977), 43-69.

²¹Cf. in respect to the rising grassroots-movement the resourceful exposition by: A.B.Durning, Action at the Grassroots:Fighting Poverty and Enviromental Decline (World Watch Paper 1988; January 1989).

²²

³¹ Cf. Ph. Kunig, Die "innere Dimension" des Rechtes auf Entwicklung (with an English summary), in: Law and Politics in Africa, Asia and Latin America, Vol.19 (1986), 383-400.

"enable" rural people to have a more direct involvement in rural development. The critical elements in this process are awareness raising and organisation building: the two fundamental bases for effective participation.²²

Awareness raising and organization building will have to go along with a learning process and a "search for new knowledge": "The growing complexity suggests that there are natural and social developments which we cannot adequately explain without generating new knowledge"²³. One of the areas that require the generation of new knowledge is the application of science and technology to development; another area is the application of the legal science to development²⁴, in particular to the strategies and practises

²²Cf. P. Oakley, People's Participation in Conversation: A Review, in: SADCC Soil and Water Conservation and Land Utilization Programme, People's Participation in Soil and Water Conservation, Report No. 10 (April 1987), 1-43, 3 ff.

In contrast to the philosophy of popular participation in its active form, under the new facilities of the IMF (SAF/ESAF) to improve the efficiency of existing investments, it was said, "people had to be persuaded to follow new approaches". Cf. J. Landell-Mills, Helping the Poos: The IMF's New Facilities for Structural Adjustment (IMF, Washington, 1989), 2. *Italics mine.*

²³ See on this: M. Nwagboso, The Agricultural Crisis, in: West Africa, January 30 - February 5, 1989, 136 ff. on A. Mafeje's Critique of the Report by the Food and Agriculture Organisation (FAO), African Agriculture: The Next 25 Years (1986), in: CODESRIA Vol. XII, No. 2 (African Development, 1987).

²⁴ There is an abundant literature focussing to a large extent on the issue of human rights; cf. International Legal Center (ed.), Law and Development. The Future of Law and Development Research. Report of the Research Advisory Committee (International Legal Center, New York 1974); International Commission of Jurists (ed.), Development, Human Rights and the Rule of Law (Oxford etc. 1981); id. (ed.), Rural Development and Human Rights in South East Asia (Penang, 1981); see for the more general aspects: R. Luckham (ed.), Law and Social Enquiry: Case Studies of Research (Uppsala/New York 1981); C.J. Diaz et al. (eds.), Lawyers in the Third World: Comparative and Developmental Perspectives (Uppsala/New York 1981); in particular: Z.J. Diaz and J.C.N. Paul, Observations on Lawyers in Development and under Development, *ibid*, 337-361 and C.J.D. Diaz and J.C.N. Paul, Lawyers, Legal Resources and Alternative Approaches to Development, *ibid*, 362-380.

of "popular participation" in development and developing constitutional orders.

If the international lawyer, who turns his attention to the legal status of both peoples and organizations of popular participation under international law, is to make any practically meaningful contribution to development and in particular to developing decent constitutional orders in which human rights are promoted and protected, he can do so only, if his colleagues in the field of law, sociology, political science etc. share his paradigm of the global environment, characterized to a certain extent by a dichotomy between state-structures on the one hand and the people and its proper institutional structure on the other; a situation, which bears the seeds of fragmentation as well as a growth potential for "government by partnership".

C. On legal theory:

"Intermediary groups" and "mediating structures" as a challenge to the lawyer and to legal method.

"Intermediary groups" and "mediating structures" are of a dynamic character; they are the expression of a formative or as the case may be transformative process of a developing society and its developing constitutional order. Institutions of self-organization of peoples, "intermediary groups", can be defined by reference to the way they are created, to the purpose for which they exist and by reference to the environment in which they have an albeit precarious existence. In any case, today it has been acknowledged that they have become indispensable for sustainable development.

The concept of a peoples' right to development, as enshrined in the Banjul Charter and laid down in the UN Declaration on the Right to Development, is equally of a dynamic character. It is a so-called "promotional right". This means that its realisation needs to be promoted by legal awareness raising and law making, be it through international treaties, legislative enactments or otherwise. From what has been said so far, institutions of popular

participation can and should be looked upon also as a means of legal awareness raising in general for promoting the law from the point of view of a right of peoples to development.

They are by their very nature subjects of interdisciplinary research par excellence for the political scientist, economist, the lawyer etc. The political scientist's and economist's concern will be the functional soundness of institutions of popular participation, the lawyer's concern will be their durability through legal validation.

To speak of "intermediary groups" and "mediating structures" in respect to popular participation in development constitutes a projection which needs still to be tested by reference to social realities and by breaking new ground of so called action and participatory research.²⁵ The ILO has since 1977 gone a long way in Asia and Latin America in doing integrated research and attending to technical cooperation in the area of Participation of the Rural Poor in Development (PORP). It identified innovative initiatives of promoting grassroots participation and self-reliance and conducted methodological experiments in animation and facilitation. More recently it turned to Africa and did research on popular participation in West-, East- and Southern Africa²⁶.

In SADCC with an inquiry into popular participation in water and soil conservation a sectoral approach was adopted cutting across all nine SADCC-countries and exposing a considerable spectrum of diversity and variety²⁷. Soil and clean water, like a healthy

²⁵ Cf. the ILO Guidelines on Popular Participation (Fn. ..).

²⁶ Cf. Md. Anisur Rahman, Glimpses of the "Other Africa". World Employment Program Research Working Paper (WEP 10/WEP:48), (ILO, January 1989). See for further examples of a variety of African self-help organizations: Rural, in: The Courier no.99, Sept.-Okt. 1986, 62-92.

²⁷ SADCC Soil and Water Conservation and Land Utilization Program. Report No.10: People's Participation in Soil and Water Conservation (Maseru, April 1987).

environment as such, are public goods of fundamental nature which will have to be accommodated in any constitutional dispensation and for which popular participation will become in general of increasing importance²⁸.

The lawyer who is interested in ascertaining the legal aspects of institutions of popular participation, beyond a general and abstract projection of an international legal right of peoples to development, will have to integrate his inquiry into the ongoing research on "mediating structures" and should perceive spontaneous initiatives at the grassroots level as a driving force for the development of law and developing constitutional orders in SSA. This raises questions of legal theory and method.

As regards the lawyer's part, he will have to ascertain and characterize the normative structure of institutions of popular participation in terms of law; institutions, which do not necessarily originate and obtain their *raison d'être* under formal state law and for the legal characterization of which one will have to reach beyond formal state law in the sense of classical legal positivism.

According to the legal theory of "institutional positivism" law is being created also "from bottom up" through spontaneously emerging institution-building factors. Institutions come into existence spontaneously on the basis of an idea in respect to the accomplishment of a given task or in situations, in which certain interactions or forms of cooperation are desirable or have become indispensable.²⁹ While the normative nucleus of spontaneous institutions lies outside the legal order, *leges extralegales*

²⁸ The "Brundtland Report" mentions effective citizen participation in decision making as a first requirement in the pursuit of sustainable development, see World Commission on Environment and Development, *Our Common Future* (Oxford, New York 1987), 65.

²⁹ Cf. O. Weinberger, *Reine oder funktionalistische Rechtsbetrachtung?*, in: O. Weinberger und B. Gkrabietz (Hg.), *Reine Rechtslehre im Spiegel ihrer Fortsetzer und Kritiker*, (Wien, New York 1988) 217ff. (245f). See further: D.N. MacCormick and O. Weinberger, *An Institutional Theory of Law: New Approaches to Legal Positivism* (Dordrecht etc., 1986).

regulatory institutions will gradually grow through a process of legalisation into the national legal system. However, they deserve the attention of the lawer already from their very inception. This requires a comprehensive approach transcending the boundaries of its discipline and risking active involvement in so-called participatory action research. Ideas of methodological purism will have to be abandoned, in order to opt for a "(m)ethodological pluralism which " although it obviously sacrifices a parsimony and elegance, more than makes up for it by affording balance and comprehensiveness. Methodological pluralism seeks to be faithful to the observed pluralism of international political life."³⁰

Concluding remarks

The promotion and realization of a peoples' right to development depend both on internal and external factors. The latter include the constitutional order of the international community, both, in political and legal terms. The principle subjects of the international legal order are originally states alone and the major emphasis was on possession and delimitation of territory, including colonial territories as a base for political and also economic development.

With decolonization the principle of self-determination of peoples matured into a new fundamental legal principle of the constitutional order of the international community. With the accession of a great number of new states to formal independence, among them some fifty African states, the international system is undergoing a fundamental change. New institutions and regulations of development cooperation and new claims to development have led to a further differentiation of the "international regime", i.e. of the constitutive elements of "international governance". A broadening of the spectrum of statehood as well as the emergence of peoples as new claimants and actors on the international level can be observed. A certain kind of parallelism between state government and people is becoming apparent, in particular so in

³⁰ Jackson (Fn. 5), 548, 549.

respect to the African developing state.

Within international institutions lately increasing emphasis has been laid on peoples as agents of development and (potential) partners of development cooperation. While a peoples' right to development is presently being promoted as a human right on regional and universal levels of the international legal order, development theory and development strategies are more and more concentrating on popular participation in development as the more realistic and promising policy for a self-reliant development and sustainable growth "from bottom up".

The international system and its operation on the basis of international law are of an increasing complexity. Under the title of "peoples' rights to self-determination and development" the international legal order's concern and the international lawyer's interests extend necessarily to fields which hitherto came under the shield of "domestic matters" or "principle of non-intervention". Yet, the "policy dialogue" between the development partners as well as the promotion of a peoples' right to development require still and will hopefully soon lead to an adequate clarification of the legal status and function of "intermediary groups" and "mediating structures", highlighting the role of peoples both as internal factors in building a new social infrastructure and as subjects and agents of a right to development under international law. What is needed, is more research on popular participation and on "Action at the Grassroots".³¹

The idea of a peoples' right to development is intricately connected with a struggle between groups for appropriate use and control of resources. The realization of a right to development requires therefore that the political standing and the social function of groups will have to be translated into legal terms. The Commission on Folk Law and Legal Pluralism of the

³¹Cf. Durning (fn...)

International Union of Anthropological and Ethnological Sciences increasingly pursues the study of theoretical and practical problems of legal pluralism, focussing in particular on the antagonism between state law versus group-laws.³² Considering this modern version of legal pluralism and state law versus group laws, the question is, whether and to what extent international law is presently developed so as to give support to group laws and in particular to rights claimed by "intermediary groups".

³²Cf. Report on Group Rights at the Close of the 20th Century: Strategies for Assisting the Fourth World (Symposium in Zagreb 28/7/1988), in: International Union of Anthropological and Ethnological Sciences - Commission on Folk Law and Legal Pluralism. Newsletter XVII, 20-23; and State Law versus Group Laws, Proposal for a course by the Commission on Folk Law and Legal Pluralism; *ibid.* 45ff.