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STUDY ON THE NEW INTERNATIONAL ECONOMIC ORDER
AND THE PROMOTION OF HUMAN RIGHTS

Progress report by Mr. Raúl Ferrero,
Special Rapporteur

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INTRODUCTION

A. Mandate

1. On the basis of a recommendation made by the Sub-Commission (resolution 3 (XXXII)) and approved by the Commission on Human Rights (resolution 18 (XXXVI)), the Economic and Social Council, by its decision 1980/126 of 2 May 1980, authorized the Sub-Commission to appoint Mr. Raúl Ferrero as Special Rapporteur with the mandate of preparing a study on the new international economic order and the promotion of human rights. In its resolution the Commission stated that the Special Rapporteur, in elaborating his study, should take into account the conclusions of the seminar held in 1980 within the framework of the advisory services programme on the basis of paragraph 3, resolution 5 (XXXV) of the Commission on Human Rights and should examine the effect, if any, that the new international economic order has on the implementation of some human rights and fundamental freedoms, as well as taking into account the comments made at the thirty-second session of the Sub-Commission and the relevant existing documents prepared by the competent organs of the United Nations system. The Commission resolution also indicated that the Special Rapporteur should collect and analyse from a human rights perspective recommendations and guidelines contained in resolutions and reports adopted by organs of the United Nations system, in particular the regional commissions, in relation to the new international economic order.

2. At the thirty-third session of the Sub-Commission the Special Rapporteur presented an oral report on the seminar on the effects of the existing unjust international economic order on the economies of developing countries and the obstacle that this represents for the implementation of human rights and fundamental freedoms, held at Geneva from 30 June to 11 July 1980. The Special Rapporteur also indicated that he would submit a preliminary report on his study at the thirty-fourth session of the Sub-Commission (E/CN.4/Sub.2/SR.861).

B. Approach

3. Over the past decade an enormous amount of research has been undertaken on various aspects of the establishment of a new international economic order. Some idea of the scope and volume of this work can be gauged from a perusal of the 128 pages of references contained in the recent United Nations publication entitled The New International Economic Order: A selective Bibliography.^{1/} Similarly, a considerable number of economic analyses relating to the existing international economic order and projections as to its future development has been published in recent years. Thus for example, in addition to the very important documentation submitted to the Eleventh Special Session of the United Nations General Assembly in 1980,^{2/} particular reference may be made to the World Bank's World Development Report, published in August each year. Nevertheless, despite the extent of the general research undertaken, there remains a notable paucity of analyses which have addressed the social, and more particularly, the human rights aspects of the new international economic order.

^{1/} United Nations publication, Sales No. E/F 80.I.15.

^{2/} See especially the Report of the Secretary-General (A/S-11/5) to which is annexed a report prepared by the Director-General for Development and International Economic Co-operation entitled "Towards the new international economic order: analytical report on developments in the field of international economic co-operation since the sixth special session of the General Assembly".

4. In the preparation of this report the Special Rapporteur has been guided by three major concerns. The first, and most fundamental, has been to adequately reflect the importance which has been attached to the subject by a wide range of bodies both within ^{3/} and outside ^{4/} the United Nations system. As the 1980 Report of the Sub-Commission states, "many members observed that the relationship between the establishment of a new international economic order and the promotion of human rights was one of the most complex, important and wide-ranging issues before the Sub-Commission". ^{5/}

5. The second concern has been the avoidance of unnecessary duplication in relation to other reports and studies which have been undertaken within the framework of the United Nations human rights programme. In this regard, particular reference may be made to (i) the Report of the Secretary-General on "the international dimensions of the right to development as a human right in relation with other human rights based on international co-operation, including the right to peace, taking into account the requirements of the new international economic order and the fundamental human needs" (E/CN.4/1334); (ii) the study by the Secretary-General on "the regional and national dimensions of the right to development as a human right" (E/CN.4/1421); and (iii) the report requested by the General Assembly in paragraph 12 of resolution 34/46 concerning the nature and extent to which the realization of human rights and fundamental freedoms is affected by present international conditions.

6. The Special Rapporteur's third concern has been to avoid a discussion of technical economic issues which are more appropriately dealt with in other United Nations fora. The challenge of the present study is to address, from a human rights perspective, a wide range of issues relating to the need to establish a new international economic order. This is a highly specialized task and one which has not previously been analysed in any detail in the context of the work of the United Nations. It is pertinent in this regard to recall the opening statement by the Director of the United Nations Division of Human Rights to the Seminar on the effects of the existing unjust international economic order on the economies of the developing countries and the obstacle that this represents for the implementation of human rights and fundamental freedoms, held in Geneva in 1980. With respect to the adoption of an interdisciplinary approach Mr. van Boven stated that

"It is a challenge of the utmost importance, for unless we can effectively bridge the gap between the realms of human rights and economics we risk the pursuit, on the one hand, of an international economic order which neglects the fundamental human development objective of all our endeavours, and on the other hand, of a shallow approach to human rights which neglects the deeper, structural causes of injustice, of which gross violations of human rights are often only the symptoms ... [Our] role implies neither interference nor involvement in technical issues which are beyond our sphere of competence. But neither does it permit the abdication of our responsibilities to the

^{3/} Of particular significance in this regard are the provisions of General Assembly resolution 32/130 which are considered infra.

^{4/} See, for example, the Declaration of the Sixth Conference of Heads of State or Government of Non-Aligned Countries, held in Havana, Cuba, 3-9 September 1979. United Nations doc. A/34/542, Annex, paras. 260-67.

^{5/} E/CN.4/1413, para. 69.

human rights provisions of the United Nations Charter. It is in the light of these human rights responsibilities that we should work for a new international order with economic as well as with human and social components, because in the final analysis the welfare of all human beings in its spiritual and material dimensions is the primary and the ultimate aim of our endeavours." 6/

C. Scope of the present and final reports

7. The present progress report contains Chapters I-VI as outlined in the table of contents. In the final report, which is to be presented to the Sub-Commission at its thirty-fifth session, these chapters will be revised to take account of comments made during the present session of the Sub-Commission and of relevant developments in the field of study over the coming months.

8. Additional chapters, which the Special Rapporteur proposes to include in the final report, are as follows:

VII	ANALYSIS OF THE NEW INTERNATIONAL ECONOMIC ORDER FROM THE STANDPOINT OF HUMAN RIGHTS	
A.	Human Rights as a Source of Much of the Programme for a New International Economic Order	
B.	Review of the Main Elements of the Programme for a New International Economic Order	
C.	Analysis of the Subject-matter concerning Human Rights in Major Documents Relevant to the New International Economic Order ..	
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I. BACKGROUND TO THE PRESENT INTERNATIONAL ECONOMIC ORDER

9. In discussing the present situation regarding world economic relations, it might not be entirely appropriate to speak of an international economic order, for it is not so much an "order" as a world-wide interaction of economic forces and powers reflecting a particular international situation resulting from historical causes that need to be understood.

10. During the second half of the nineteenth century and the first half of the twentieth century, a large number of countries now known as "developing" countries were, in fact, dependent territories of European powers. The great metropolitan countries decided the fate of the territories concerned and dictated the type of economic policy they were to follow and their role on the great checkerboard of world economic relations. At that time, those living under such imperial powers had little opportunity to enjoy full human, political or economic freedom. They had no control over their natural resources, still less did they receive equitable prices for their products. The benefits of such an economic and trade relationship were advantageous only to the metropolitan countries, and the territories under domination were left with only enough to keep up an administration capable of imposing the form of law and order that suited the metropolitan country.

11. Because the present economic order began to be imposed at a time when the vast majority of developing countries were still dependent territories and therefore unable to take part in its establishment, it was perforce inequitable and contrary to their interests. It is well known that international economic and monetary relations are based on three liberal principles, namely, freedom, equality and reciprocity. These principles could well suffice to bring prosperity for all, but in a world of equals, not in a world of unequals. In a world of "potentates" on one side and the "poor" on the other, it is not right to expect the poor to accept principles which profit the powerful alone and harm the weak; in such conditions, the relationship tends to give rise to exploitation, legal equality to produce material inequality and reciprocal concessions to widen still further the already immense gap between the rich and the poor countries.

12. In this respect, it is worth mentioning the interesting comparison that has been drawn between the present international economic order and the national economic orders of the European countries at the end of the nineteenth century:

"At that time, national economies in their liberal setting had come to the point where the system-promoted interests of the haves, the entrepreneurs, became incompatible with the system-neglected interests of the have-nots, the working masses. On the brink of violent revolution the ruling classes were forced to allow restriction of liberal enterprise by the enactment of special legislation, which provided for a gradually expanding minimum of social security and economic welfare for the hitherto exploited. In other words, to meet the demands of the less privileged the three basic principles of liberalism underwent the following changes: the principle of freedom was restricted by the introduction of the principle of protection; the principle of legal equality was in part replaced by that of material equality; and the principle of reciprocity was conditioned by the fact that the working class was endowed with rights which restricted the operational freedom of the entrepreneurs. Today one can observe the tendency towards a similar development on the international scene". ^{1/}

^{1/} Report of the Seminar on the Effects of the Existing Unjust International Economic Order on the Economies of the Developing Countries and the Obstacle that this Represents for the Implementation of Human Rights and Fundamental Freedoms, Geneva, Switzerland, 30 June - 11 July 1980, document ST/HR/SER.A/8, pp. 7-8.

There are some who describe the prevailing order as a veritable "disorder" and maintain that to speak of a new order presupposes the existence of a previous order, when no such order really exists. This has been expressed by Mohammed Bedjaoui as follows:

"The historical and political reasons for the present disorder can be mainly expressed in terms of imperialism, colonialism and neo-colonialism. Dependence, exploitation, the looting of the resources of the third world, and the introduction of zones of influence, have marked international relations with "organized" or "institutionalized" disorder. The cruel, inhuman law of maximum profit has finally succeeded in establishing disorder with the Faustian power of multi-national firms, the gigantism of military-industrial complexes and the ecological disaster". 3/

The present order is a serious obstacle to the realization of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, more particularly in article 25, which declares that everyone has the right to a standard of living adequate for the health and well-being of himself and of his family. However, we must make it clear from the outset of this work that the existence of an unjust international economic order cannot be used to justify failure to secure the realization or observance of human rights. In any event, we are faced with two needs which have to be met side by side. One is the need to change the present international economic order into a more equitable order and the other is the need to promote and protect human rights and fundamental freedoms in each and every country; they are interrelated needs, but neither of them is a prerequisite for the realization of the other.

13. The prevailing international economic order is certainly unjust and it has to be appreciated that one of the main reasons is the absence of any participation in its establishment by the "developing" countries, which are now bearing the brunt of the adverse consequences; this means that it is essential to redress the situation for the higher cause of human rights.

14. A process of decolonization has indeed given birth to innumerable independent States since the Second World War, but unfortunately such political independence has not generally been followed by economic, social or cultural independence, which are equally important if States are to achieve any real development.

15. These latter forms of dependence may prove more detrimental than political dependence and appear in such diverse and sophisticated guises that it is not easy at times to determine clearly the degree of domination involved. Such domination is exercised by a small group of countries that wield virtually all the political, military, economic and technological power in an international community in which any real democratization of power is lacking.

8/ Mohammed Bedjaoui, "Towards a New International Economic Order"; Paris, UNESCO, 1979, p. 20.

II. LEGISLATIVE BASES FOR THE ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER

16. The origins of demands for the establishment of a more equitable and participatory international economic order can, in certain respects, be traced back to the immediate post-World War II negotiations over the establishment of an International Trade Organization and the proposals for the adoption by the General Assembly of a Declaration on Rights and Duties of States. While the significance of these initiatives will be considered in Chapter VI below, it is proposed in the present chapter to undertake a brief survey of the major legislative bases for the establishment of a new international economic order. An analysis of the major elements which make up the demands for a new international economic order will also be undertaken in Chapter VI.

17. It was on the threshold of the 1970s that the United Nations took a more resolute stand to help change the existing international economic order, observing that the existing order had failed to meet the requirements of international co-operation needed to solve economic, social, cultural or humanitarian problems or to promote and encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

18. In resolution 2626 (XXV), of October 1970, the General Assembly proclaimed the International Development Strategy for the Second United Nations Development Decade, in which it highlighted the fact that "the level of living of countless millions of people in the developing part of the world is still pitifully low. These people are often still undernourished, uneducated, unemployed and wanting in many other basic amenities of life. While a part of the world lives in great comfort and even affluence, much of the larger part suffers from abject poverty, and in fact the disparity is continuing to widen". 9/

19. Four years later, in 1974, the General Assembly adopted, in resolution 3201 (S-VI), the Declaration on the Establishment of a New International Economic Order, in which it pointed out that "the present international economic order is in direct conflict with current developments in international political and economic relations. Since 1970, the world economy has experienced a series of grave crises which have had severe repercussions, especially on the developing countries because of their generally greater vulnerability to external economic impulses. The developing world has become a powerful factor that makes its influence felt in all fields of international activity. These irreversible changes in the relationship of forces in the world necessitate the active, full and equal participation of the developing countries in the formulation and application of all decisions that concern the international community". 10/

20. The resolution further stated that "All these changes have thrust into prominence the reality of interdependence of all the members of the world community. Current events have brought into sharp focus the realization that the interests of the developed countries and those of the developing countries can no longer be isolated from each other, that there is a close interrelationship between the prosperity of the developed countries and the growth and development of the developing countries, and that the prosperity of the international community as a whole depends upon the prosperity of its

9/ Paragraph 3.

10/ Paragraph 2.

constituent parts. International co-operation for development is the shared goal and common duty of all countries. Thus the political, economic and social well-being of present and future generations depends more than ever on co-operation between all the members of the international community on the basis of sovereign equality and the removal of the disequilibrium that exists between them". 11/

21. Shortly afterwards, in May 1974, the General Assembly adopted in resolution 3202 (S-VI) the programme of Action on the Establishment of a New International Economic Order, in which attention was drawn to the fact that, "In view of the continuing severe economic imbalance in the relations between developed and developing countries, and in the context of the constant and continuing aggravation of the imbalance of the economies of the developing countries and the consequent need for the mitigation of their current economic difficulties, urgent and effective measures need to be taken by the international community to assist the developing countries, while devoting particular attention to the least developed, land-locked and island developing countries and those developing countries most seriously affected by economic crises". 12/

22. The Charter of Economic Rights and Duties of States, adopted by the General Assembly in resolution 3281 (XXIX), of December 1974, is based on the promotion of collective economic security for development, in particular of the developing countries, with strict respect for the sovereign equality of each State and through the co-operation of the entire international community; the Charter points out that the fundamental principles of international economic relations include "respect for human rights and fundamental freedoms". 13/

23. A year later, in 1975, the General Assembly adopted resolution 3362 (S-VII), on development and international economic co-operation, expressing its determination to "eliminate injustice and inequality which afflict vast sections of humanity and to accelerate the development of developing countries".

24. It has to be recognized, however, that the linkage between this important topic and human rights has so far been very feeble, although this does not mean that it has been disregarded or overlooked. Indeed, it is highly significant that in paragraph 1 (f) of resolution 32/130 of 16 December 1977, the General Assembly decided that the approach to the future work within the United Nations system with respect to human rights questions should take into account, inter alia, the concept that the realization of the new international economic order is an essential element for the effective promotion of human rights and fundamental freedoms and should be accorded priority.

25. The importance assigned to the matter is such that the General Assembly, in resolution 32/174 of 19 December 1977, decided inter alia, to convene a special session of the General Assembly in 1980 in order to assess the progress made in the various forums of the United Nations system in the establishment of the new international economic order and, on the basis of that assessment, to take appropriate action for the promotion of the development of developing countries and international economic co-operation, including the adoption of the new international development strategy for the 1980s.

11/ Paragraph 3.

12/ Paragraph 1.

13/ Chapter I, para. (k).

26. I do not intend to refer to a number of resolutions and decisions that may have a more or less direct bearing on the general topic of the new international economic order and the promotion of human rights, but will mention specifically Commission on Human Rights resolutions 5 (XXXV), which was adopted on 2 March 1979 and recommended to the Economic and Social Council that a seminar be held in 1980, within the framework of the advisory services programme, on the effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms, particularly the right to enjoy adequate standards of living as proclaimed in article 25 of the Universal Declaration of Human Rights. The recommendation was endorsed by the Council and the seminar was held at Geneva from 30 June to 11 July 1980. 14/

27. Two highly important events relating to the topic under consideration thus took place in 1980. First in order of importance was the special session of the General Assembly in 1980, and second, the seminar that preceded the special session.

28. It is also important to mention resolution 6 (XXXVI), adopted by the Commission on Human Rights in 1980, in which the Commission recognized the need to create, at the national and international levels, conditions for the full promotion and protection of the human rights of individuals and peoples 15/ and further recognized that, in order to guarantee fully human rights and complete personal dignity, it is necessary to guarantee the right to work, education, health and proper nourishment through the adoption of national and international measures, including the establishment of the new international economic order. 16/ The Commission once again reiterated that the right to development is a human right and that equality of opportunity for development is as much a prerogative of nations as of individuals within nations. 17/

29. Recently, in December 1980, the General Assembly adopted in resolution 35/56 the International Development Strategy for the Third United Nations Development Decade which aims at "the promotion of the economic and social development of the developing countries with a view to reducing significantly the current disparities between the developed and developing countries, as well as the early eradication of poverty and dependency which, in turn, would contribute to the solution of international economic problems and sustained global economic development, and would also be supported by such development on the basis of justice, equality and mutual benefit". 18/ It states that "the development process must promote human dignity. The ultimate aim of development is the constant improvement of the well-being of the entire population on the basis of its full participation in the process of development and a fair distribution of the benefits therefrom". 19/

14/ The report of the seminar is contained in document ST/HR/SER.A/3.

15/ Paragraph 1.

16/ Paragraph 4.

17/ Paragraph 2.

18/ Paragraph 7.

19/ Paragraph 8.

30. We cannot fail to cite the important General Assembly resolution of 1969 adopting the Declaration on Social Progress and Development, resolution 2542 (XXIV), which affirms "that man can achieve fulfilment of his aspirations only within a just social order and that it is consequently of cardinal importance to accelerate social and economic progress everywhere, thus contributing to international peace and solidarity" 20/ and that "social development can be promoted by peaceful co-existence, friendly relations and co-operation among States with different social, economic or political systems". 21/

31. Before concluding this general review of the major NIEO instruments it is appropriate to refer briefly to the debate concerning the legal force of the recommendations, resolutions and decisions of international organizations. While a variety of viewpoints exists on this complex subject, 22/ in general terms, we share the view of Oswaldo de Rivero, who states:

"Although these recommendations and decisions and the principles of economic and social policy embodied in them are not, strictly speaking, legal rules, they do constitute a set of provisions which the international community is recommending to Governments as policy measures and which may serve as a source of inspiration for the formulation of legal rules that will establish a new branch of public international law that could be called international development law. Many of these resolutions and recommendations, however, create obligations for States and, in particular, administrative obligations vis-à-vis international organizations and obligations relating to multilateral assistance programmes adopted by countries ... International development law is taking shape as a spin-off of the countless resolutions and recommendations adopted by international organizations as a result of confrontation and negotiations. In other words, it is a political factor, a catchment basin, for legal rules in favour of development, and as such, there is no doubt that it depends on circumstances that vary from case to case and determine the amount of bargaining power the developing countries can wield in order to create the rules that are best suited to their needs and objectives." 23/

20/ Fifth preambular paragraph.

21/ Seventh preambular paragraph.

22/ See for example O.Y. Asamoah, The Legal Significance of the Declarations of the General Assembly of the United Nations (The Hague, Nijhoff, 1975); and Maurice Mendelson, "The Legal Character of General Assembly Resolutions: Some Considerations of Principle", in Legal Aspects of the New International Economic Order, Kamal Hossain (ed.), (London, Pinter/New York, Nichols, 1980) pp. 95-107.

23/ Oswaldo de Rivero, New Economic Order and International Development Law, Pergamon Press, Oxford, 1980, p.122.

III. APPROACH TO THE TOPIC

32. The link between economic issues and human rights is, of course, nothing new.

33. Historically speaking, the first human rights to be recognized were civil and political rights. Economic, social and cultural rights came later, at the end of the nineteenth century. Now in the second half of this, the twentieth century, certain new human rights formulations can be seen to emerge, such as the right to enjoy the common heritage of mankind to development, to a clean and healthy environment, to peace and other rights that belong to a third stage and are in the process of conceptual elaboration, as are the tools for establishing them, which have yet to be worked out. The task facing us is an enormous one - a challenge that we must take up, regardless of its complexity. It is a matter for the Sub-Commission to study thoroughly, as an independent, specialized and suitably qualified body.

34. I realize that a great deal of imagination and dedicated work are needed to develop these ideas and concepts, but it is also true that we are starting out from principles which have already gained much ground and are accepted almost everywhere.

35. Moreover, some facts are beyond dispute and call for concern in all quarters. No one disputes that the level of living of countless millions of people in the developing regions continues to be pitifully low. They continue to be undernourished, uneducated and unemployed. While one part of the world lives in comfort and even affluence, the great majority live in poverty and the gap is widening.

36. The North, including Eastern Europe, has a quarter of the world's population and four-fifths of its income. The South, including China, has three billion people - three quarters of the world's population, but living on one-fifth of the world's income. 24/

37. In the countries of the North, the average person has a life expectancy of 70 years and will be educated at least up to secondary school level. In the countries of the South, the great majority have a life expectancy of 50 years and 50 per cent of the population have no opportunity of learning to read and write.

38. It is therefore necessary to seek a better and more effective system of international co-operation that will make it possible to eliminate the grave disparities in the world of today and lead to the establishment of a more equitable new international economic order.

39. A global strategy is called for, one based on joint and concerted action by the developing and developed countries in all spheres of economic and social life. It is a joint responsibility that must be shared by the whole of the international community and it cannot be ignored. It is plain that this task, because of its importance, will run into difficult obstacles and they will have to be overcome along the way. In the field of human rights, we are unquestionably facing a new situation that offers a wider outlook and broader horizons. When we speak of the new international economic order, we are really referring not to a matured concept but to a concept the content of which is essentially mutable. Therefore, a very flexible, dynamic approach is needed. In short, it is in some but certainly not all respects still shapeless and blurred, like the maps of the world printed towards the end of the Middle Ages and the beginning of the modern era.

24/ North-South: A programme for survival, the report of the Independent Commission on International Development Issues under the Chairmanship of Willy Brandt; Pan Books, London and Sydney, 1980, p. 32.

40. Let us remember the example of Christopher Columbus, who was convinced of the existence of a new world and, although he had public opinion against him, managed to overcome the difficult obstacles in his way, set off to find it and discovered it for all mankind. Before he reached it, however, he did not know what it was like, what its shape was, or who inhabited it, but he still embarked on his venture without fear or foreboding, and his discovery led to the birth of the modern era.

41. We know about the present international economic order and are aware that it is unjust; we are therefore convinced that it has to be changed and that this gigantic task has to be undertaken without fear of foreboding.

42. The present order suffers from grave imbalances which have created a state of instability that favours only a small number of the inhabitants of the globe, a situation which cannot endure much longer, nor can we become accustomed to it, as though it were intended to be unending or impossible to alter.

43. Louis Henkin, who is not an enthusiast about the need for a new international economic order, nevertheless admits that by the end of the century we will have one that is substantially different:

"I cannot foresee the outcome of dialogue and eventual negotiation, and, in fact, there is not likely to be an 'outcome', only a series of continuing developments and changes over years and decades. One can say with some confidence, however, that although the developed world holds most of the cards today, the influence of numbers, of rhetoric, of ideas whose time have come - if slowly - will be strongly felt in the politics of economics; and the international economic order at the end of the century, if not new, will be substantially different from what we know today." ^{25/}

44. The change from the present order to the new order can be made peacefully by direct negotiations between the developed and the developing countries, or by unilateral or unnegotiated measures such as the position taken by the member countries of OPEC, for they have, with undoubted success, modified the structure of oil prices and of the oil trade without consultation with, or participation by, the oil consumer and oil-trading countries.

45. A non-peaceful change in international economic relations could even involve the use of force, i.e. war, an approach that cannot be shared by those of us who believe in peaceful solutions for the problems of mankind.

46. Obviously, the existing economic relationship between States is very harmful to the developing countries, which are rejecting it for that reason and are already struggling to have it changed, as explained by Jean-Jacques Servan-Schreiber:

"The poor countries are like ships in distress. The ideological differences and the numerous conflicts of the third world pale into insignificance compared with this new and widespread fact: their slide into absolute destitution. Fewer and fewer investments, with the consequent decline in developmental capacity, an indebtedness so enormous that nearly one hundred third world countries on

^{25/} Louis Henkin, *How Nations Behave*; published for the Council on Foreign Relations by Columbia University Press, New York, 1979, p. 210-211.

the verge of bankruptcy are considering how, without causing a chain reaction of catastrophes - beginning with their own - to declare themselves in a state of 'suspension of payments'.

Such is the state of the world at the dawn of the 1980s. It is quite strictly an intolerable one. It is one that will not be tolerated." 26/

47. The right to development is a right of individuals and nations, but the new international economic order (NIEO) is an entitlement of States, and the ultimate beneficiary is the individual.

48. In the matter of concrete achievements in the topic under consideration, it has not yet been possible to obtain much success with the existing international machinery, and the international organizations and machinery in question must therefore review their programmes and approach. This means that, instead of leaving international organizations on the sidelines in the establishment of a new order, as some people would appear to suggest, the organizations must be directed towards co-operating with the States that are seeking to establish economic ties that will redress the existing unjust relationships. The guiding objective of international action must be to make those organizations more useful and more efficient.

49. The concept of the NIEO cannot be divorced from the efforts that have to be made by each country to achieve its own development, in other words, the internal effort to be made by each State to promote greater economic and social justice within its own borders. Hence, internal action is needed so that, along with the establishment of the NIEO, countries will struggle for a better order within their own society. Internal inequalities are a problem which must be remedied, in order to reduce the major economic and social differences which presently favour only a few groups who are deriving the most benefit from the wealth of their countries. Internal restructuring is therefore essential in many countries.

50. Nevertheless, this national effort must not lead us to tie it into the concept of the NIEO, as though it were an integral part of it, because this would lead us along the wrong path. The NIEO must be established through the action of States at the level of their relations with other States, and alter the existing links that favour no more than a few countries.

51. The North-South dialogue between the rich and the poor countries must produce concrete results, results which have not been achieved up to now. This is clearly stated in the Brandt report:

"The North-South dialogue is not only an essential task in itself: it is also a wider call for action. It can make global action more probable by demonstrating that countries and continents can overcome their differences and resolve the contradictions between their self-interest and their joint interests. Now that both North and South are increasingly aware of their interdependence, they need to revitalize the dialogue to achieve specific goals, in a spirit of partnership

26/ Jean-Jacques Servan-Schreiber, *Le défi mondial*, Fayard, Paris, 1980, p. 23, [Translated from the French original by the Secretariat.]

and mutual interest rather than of inequality and charity. The dialogue must aim to give every society a full opportunity to develop as it wishes and satisfy the essential need of its people at an acceptable pace; and to create a dynamic world in which every country can achieve its own development, each respecting the other and respecting also the imperatives of a shared planet." 27/

IV. IMPACT OF THE PRESENT INTERNATIONAL ECONOMIC ORDER ON HUMAN RIGHTS

52. The topic of human rights can be viewed differently in terms of how much emphasis is placed on each category or group of rights, and this largely depends on the political system imposed by each State.

53. For example, the argument in favour of implementing economic, social and cultural rights as an indispensable and prior requirement for the enjoyment of civil and political rights seems nowadays to have gained many followers. We look on this as a ~~mistaken approach, since it gives priority to economic, social and cultural rights~~ that sets them over and above civil and political rights.

54. Indeed, we are of the opinion that it is extremely important to stress the indivisible and interdependent nature of all human rights, without giving priority over any category in particular. 28/ The main difficulty is not to settle on the priority but to establish a flexible relationship between both categories of rights and take each country's level of socio-economic development fully into account; to do so, it must be appreciated that the implementation of economic, social and cultural rights depends largely on each State's level of development, while the implementation of civil and political rights depends exclusively on the political will of Governments. Thus the General Assembly has stated, in paragraph 1 (d) of resolution 32/130, that "human rights questions should be examined globally, taking into account both the over-all context of the various societies in which they present themselves, as well as the need for the promotion of the full dignity of the human person and the development and well-being of the society."

55. Enjoyment of economic, social and cultural rights depends in some measure on the efforts made by States in the form of specific and concrete domestic policies, even by overcoming the limitations of their own under-development. But it also depends - and it is important to grasp this - on international solidarity viewed as an extension of the principle of brotherhood, which will make it possible to redress an international economic situation that is notorious for the unequal distribution of wealth among nations and a widening gap between the rich and the poor countries which ultimately runs counter to the efforts being made to achieve collective prosperity.

56. The concept of human rights has evolved gradually. After the traditional classification into civil and political rights, or what could be termed "first generation" rights, came economic, social and cultural rights, which may be placed in the second generation, and only in recent times has the need been maintained to recognize the existence of the rights to solidarity - which includes international solidarity - development, the quality of the environment, peace, the common heritage

27/ North-South: a programme for survival. The report of the Independent Commission on International Development Issues under the Chairmanship of Willy Brandt; Pan Books, London and Sydney, 1980, p. 30-31.

28/ AS stated in para. 1 (a) of General Assembly resolution 32/130, "all human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of both civil and political, and economic, social and cultural rights".

of mankind, and other rights that make up what could be called the third generation in this evolution. ^{29/} These rights, however, have scarcely taken shape and to implement them will require a major effort along a difficult road ahead. Certain principles have already been accepted and no one can fail to recognize the overriding and urgent need to change the level of living of millions of human beings in the developing countries, many of whom are starving and are simply struggling to survive.

57. The scholar who, more than any other, has engaged in charting this important distinction as regards the emergence and recognition of these rights, is Karel Vasak, who says:

"The rights proclaimed in the Universal Declaration fall into two categories: on the one hand, civil and political rights and, on the other hand, economic, social and cultural rights. Because of the changing patterns of society in recent years, it has become imperative to formulate what the Director-General of UNESCO has termed 'the third generation of human rights'. The first generation concerns 'negative' rights, in the sense that their respect requires that the State do nothing to interfere with individual liberties, and correspond roughly to the civil and political rights. The second generation, on the other hand, requires positive action by the State to be implemented, as is the case with most social, economic and cultural rights. The international community is now embarking upon a third generation of human rights which may be called 'rights of solidarity'.

Such rights include the right to development, the right to a healthy and ecologically balanced environment, the right to peace, and the right to ownership of the common heritage of mankind. Since these rights reflect a certain conception of community life, they can only be implemented by the combined efforts of everyone: individuals, States and other bodies, as well as public and private institutions." ^{30/}

58. The situation of mankind requires once and for all a more effective system of international co-operation aimed at eliminating the existing disparities as part of a strategy for concerted action that encompasses all spheres of economic and social life. No country can evade its responsibility in such a task, one which all must share.

59. As the Declaration on the Establishment of a New International Economic Order stresses, the gap between the developed and the developing countries continues to widen, largely owing to the present economic system, which was established at a time when most of the developing countries did not even exist as independent States and is in direct conflict with the natural evolution of international political and economic relations. Since 1970, the world economy has experienced a series of grave crises and the effects have been felt more particularly in the least developed countries, which are generally more vulnerable to the fluctuations of the external economy. However, the developing world has gradually become an influential factor in all spheres of international activity. This evolution in the relationship of forces in the world necessitates a more active and equal participation of the developing countries in the formulation and application of decisions that concern the international community. Thus the political,

^{29/} See the Final Report of a UNESCO Colloquium on the New Human Rights: The "Rights of Solidarity", Mexico City, 12-15 August 1980, UNESCO doc. SS-80/CONF.806/12 (1981).

^{30/} Karel Vasak, "A 30-year struggle: The Sustained Efforts to Give Force of Law to the Universal Declaration of Human Rights", UNESCO Courier, November 1977, p.29.

economic and social well-being of present and future generations depends more than ever on co-operation between all the members of the international community, co-operation which must be embodied in the new international order to be established.

60. The new order must take into consideration three important series of principles: (1) sovereign equality of States, self-determination of all peoples, inadmissibility of the acquisition of territories by force, and territorial integrity, (2) the right of all States, territories and peoples under foreign occupation, colonial domination or apartheid to restitution of their natural resources and all other resources, and (3) the right of the developing countries and the peoples of territories under colonial and racial domination and foreign occupation to achieve their liberation and to regain effective control over their natural resources and economic activities. These principles are clearly set forth in chapter 1 of the Charter of Economic Rights and Duties of States, which provides inter alia that economic, political and other relations between States should be governed principally by respect for human rights and fundamental freedoms. Article 2 of the Declaration on Social Progress and Development lays down that development and progress in this field are founded on respect for the dignity and value of the human person and should ensure the promotion of human rights and social justice. The meeting of experts organized by UNESCO in 1978 arrived at the conclusion that the concept of development means the fullest possible realization of the potential of every human being. ^{31/} The idea of human rights has been constantly enriched during its history and characterized in the post-war period by decolonization, some redistribution of resources and the emergence of the need for a new international economic order.

61. The concern of the United Nations in these topics is not new. Various United Nations organs and related bodies have for some time pointed to the interdependence of countries and the need for respect for and promotion of human rights and fundamental freedoms as an essential ingredient of international economic relations.

62. In a wide range of other resolutions, the General Assembly has emphasized the importance of achieving greater equity in international economic relations, affirmed the major role of human rights in development and stressed the need to eliminate the differences existing between developed and developing countries and accelerate the economic and social development of poor countries. Some people, however, rightly wonder whether, in spite of such declarations, changes have not tended to produce the opposite of the intended objectives. If this proves to have been the case, the strategy followed hitherto would definitely need to be reconsidered. The efforts of the international community must be directed unswervingly towards bringing the international economic order into line with a more just and equitable international legal order. There is no real dividing line between the international economic order, the international political order and the international social order. The three form part of a single legal order which embraces them all and which should be reflected in the international legal order.

63. Development has become a key word in the contemporary world and it would be a serious mistake to assess it solely in terms of change in per capita gross national product, since it includes non-quantifiable components such as human dignity, security and freedom. There is, then, an obvious link between the new international economic order, human rights and development, and the last mentioned must satisfy people's

^{31/} Final Report of a UNESCO Expert Meeting on Human Rights, Human Needs and the Establishment of a New International Economic Order, UNESCO doc. SS-78/CONF.630/12 (1978).

needs, both material and non-material. Economic progress is certainly necessary for development and undeniably possesses the potential to contribute to respect for human rights at the national, regional and international levels, but in the last analysis it is not sufficient in itself.

64. Equality between States, like equality between individuals, is difficult to achieve in practice. Many human rights, as defined in various international instruments, have not yet been given effect in the poorer countries. Many rich countries are at present threatened by unemployment and their workers fear economic competition from the third world. By emphasizing the link between economic development and human rights and stressing that the latter are the main objectives of development, the support of the industrialized peoples can surely be mobilized to contribute to the establishment of a new and more just international economic order.

65. The existing unjust international economic order is a major obstacle to realization of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights, in particular in article 25, which states that everyone has the right to a standard of living adequate for the health and well-being of himself and his family. ^{32/} More than 30 years after the preparation and adoption of the Universal Declaration of Human Rights, 850 million people, i.e. approximately 40 per cent of the inhabitants of the developing countries, are still living in dire poverty. ^{33/}

66. Owing to its complexity, the analysis of our present subject requires an interdisciplinary approach if really effective solutions are to be found. It is not just an economic matter without trade implications or a political one without social implications, as we have made clear above. On the contrary, it is a problem with wide ramifications requiring an interdisciplinary approach embracing the manifold aspects involved.

67. When we speak of the necessity of establishing a new international economic order, it should be emphasized that the central or essential element in the process must be man, whose basic dignity must be defended and safeguarded, and that accordingly the goal should be respect for human rights and fundamental freedoms.

68. An essential foundation for a new order is the existence of effective international co-operation sustained by the efforts of all States to find appropriate solutions to the global problems confronting mankind.

69. However, the economies of developing countries are affected not only by international factors such as deterioration in the terms of trade or a high level of indebtedness, but also by internal factors such as development policies prejudicial to human rights; there is a corresponding need for political will, on the part of the peoples and leaders of the developing countries, to ensure their observance.

70. The new international economic order must be seen as a dynamic process and not as a static system of rules to provide international juridical safeguards for human rights since the affirmations of the need for a new order, in its fullest sense, are affirmations of human rights that entail a fresh approach to the basic premises of international law.

^{32/} See generally ST/HR/SER.A/8; R. Kothari, "Human Rights as a North-South Issue", Bulletin of Peace Proposals Vol. 11, No. 4, 1980, pp. 331-338; and I.P. Blishchenko, "The Impact of the New International Order on Human Rights in Developing Countries", *ibid.*, pp. 375-386.

^{33/} World Development Report, 1980 (Washington, D.C., World Bank, 1980), p. 33.

71. It is clear that in establishing a new international economic order account must be taken of the varying needs of developing countries at different stages of development. To that end, special attention must be given to the situation of the poorest countries, as stressed by the General Assembly in resolution 33/48, on the new international development strategy.

72. The total income of the developing countries represents only a little more than one quarter of world income; a number of factors adversely affect their economic development, such as unfair terms of trade, the procedures and characteristics of transfer of technology, the "brain drain", the frequently damaging effect of foreign investments and the unifying role played by transnational corporations in perpetuating the economic domination of developing countries.

73. To sum up, it can be said that the call to replace the existing unjust international order is based on the need for a new one based on equity, sovereignty, equality, interdependence, mutual benefit and co-operation between all States irrespective of their economic and social systems.

74. The situation of the inhabitants of some developing countries is made even worse by major violations of human rights resulting from apartheid, racism in all its forms, foreign occupation and domination, affronts and threats to national sovereignty - particularly national unity and territorial integrity - the refusal to recognize the fundamental right of peoples to self-determination and the right of all nations to exercise full sovereignty over their natural wealth and resources.

75. In the design of a new and more just order, underprivileged ethnic groups must not be neglected, in particular indigenous groups. They must be given the opportunity of development, through control over their territories and natural resources, as well as their own system of participation, in accordance with appropriate Government policies. 34/

76. The role of disarmament should also be emphasized. Let us imagine for a moment what it would mean if the huge resources devoted to military ends were used for civilian purposes. How much could be achieved and how many development programmes could be launched! It is moreover essential to bear in mind how difficult it is for the developing countries, in view of the world's armaments-oriented structure, to pursue their own paths towards progress if at the same time they are confronted with threats of intervention and intimidation from outside. As the report of the Secretary-General on the international dimensions of the right to development concluded, "disarmament is crucial to realization of the right to development as it is to realization of the right to peace, the achievement of a new international economic order, and the promotion of respect for all human rights." 35/

34/ On this issue see especially the comprehensive analysis in the Final Report by the Special Rapporteur, Mr. José R. Martínez Cobo, on the Study of the Problem of Discrimination against Indigenous Populations, E/CN.4/Sub.2/476 and Add.

35/ E/CN.4/1334, para. 229. Despite the importance of disarmament issues it is not proposed in the present study to duplicate work already done elsewhere. See in particular the three background papers submitted to the Seminar on the relations that exist between human rights, peace and development, held in New York from 3 to 14 August 1981: HR/NEW YORK/1981/BP.1, A. Eide, "Consideration of the Impact of the Arms Race in the Realization of the Right to Development and Peace; Analysis of the Concrete Measures for the Full Enjoyment of Human Rights, particularly the Right to Development"; BP.2, V.N. Kadryavtsev, "Human Rights, Peace and Development"; and BP.3, B. Sen Gupta, "Towards an Integrated Approach to Human Development".

V. HUMAN RIGHTS AND THE NATIONAL AND INTERNATIONAL ORDERS

77. When we speak of the imperative need for the establishment of a new and more just order, it should not be forgotten that this concept covers not only the international but also the national order; there would be no real point in restructuring the international order for the benefit of the developing countries if the fruits of that reform did not prove beneficial to the vast majorities whose needs are the greatest. The basis and true meaning of the reform of international economic structures lie precisely in the fact that it seeks to correct inequalities between societies which are rich and others which are chronically poor; in other words, greater internal distributional justice must be achieved in all countries so that the ultimate beneficiary of the drive for a new world order will be the people themselves.

78. This does not mean that the developed countries should not interest themselves in a new and more just world order simply because, in their view, the conditions for the proper distribution of wealth do not yet exist in countries which are still in the process of development, and which should be the most favoured within the new international economic structure that is to be established. This reservation is not acceptable because it would be equivalent to conferring the role of presiding judges on those who should be partners in a negotiation between sovereign countries owing each other respect.

79. The internal effort of each country should parallel what is happening at the international level, but neither process should be conditional on the progress of the other.

80. Resources, whether national or international, are without value if the State is unable to comply with its obligations to respect and implement human rights; in other words, if through international co-operation it is possible to remedy the lack or scarcity of resources, the recipient States are under an obligation to participate in such co-operation. It is implicit in the right to development that States should agree to assist one another when external factors obstruct the effective implementation of human rights.

81. Nor can it be argued that a developing country which has not reached a certain level of per capita income (for example, \$US 500 annually) should be excused from compliance with its obligation to respect and ensure respect for human rights until it has achieved the necessary minimum. Disregard for human rights cannot be justified simply because a certain stage of development has not been reached nor can it legitimately be claimed in most situations that certain liberties must be sacrificed in the interests of a higher material standard of living.

82. An equally unacceptable argument is that the enjoyment of civil and political rights must sometimes be sacrificed in order to guarantee the implementation of economic, social and cultural rights; as explained in earlier chapters, no category of human rights is superior or hierarchically senior to another.

83. This leads to the argument currently fashionable in a number of countries that a repressive régime can perhaps be justified in the higher interests of internal security for the purpose of carrying out a particular economic policy.

84. Certainly not. The economic policy of a Government cannot be used to justify repressive measures for its implementation.

85. It is a matter for concern that the reprehensible doctrine of "national security" seeks in certain countries to replace the democratic concept of the sovereignty of the people, which is based on the right to elect and to be elected freely, on respect for inviolable human rights and on the autonomy and independence of the powers of government. In this connection Leopoldo Benítez Vinueza has said:

"The so-called doctrine of national security, in the form in which it is interpreted and practised by the Latin American dictatorships, is the negation of popular sovereignty; it seeks to replace that by action which intrinsically involves exchanging the liberty of the individual for the security of a group and replacing human rights by a self-styled protected democracy which is not a democracy and does not protect rights other than those of the privileged classes. Outwardly it involves mortgaging the economic future for a false security based on an insane armaments race. Such a misleading replacement of popular sovereignty by so-called national security has unfortunately led to a sui generis type of dictatorship equivalent to the harsh occupation of countries by their own armies." 36/

86. One method whereby human rights can be truly and effectively safeguarded internally is through fair participation in which the people can express their own will in a free and responsible manner, thus enabling the entire community to fulfil themselves and exercise conscious freedom of choice. Workers and their organizations should participate not only in the management of public, economic, social and cultural affairs as part of the democratization of the State, but also in the decision-making processes of economic and social planning, in the determination of social development goals and in the creation of conditions for achieving these goals.

87. Such participation by citizens in the decision-making processes of their countries is a principle which should apply equally at the international level, where the developing countries are entitled to participate in the making of decisions which are their responsibility or concern. "Participation by the developing countries in the management of the international economic system remains inadequate". 37/

88. Thus, for example, in developing countries with an indigenous population, the principle of participation implies the egalitarian recognition of the right of that population to participate fully in the economic, political and social processes of the State of which it forms part, as well as the right to preserve its traditions, customs, language and other characteristics, which find expression in the right to differ. Alienation as a deliberate national and international policy only leads to lack of identity on the part of those who are subjected to it and who, by losing their links with their own culture, also lose their authenticity and potential. More serious still is apartheid, which subordinates large sections of society to a situation of humiliating inferiority and isolates them from the States of which they form part.

36/ Leopoldo Benítez Vinueza, Situación de los derechos humanos en América Latina, document of the international seminar on human rights in Latin America, Quito, Ecuador, 1979, p. 3.

37/ A/S-11/5, (1980), "Assessment of the progress made in the establishment of the new international economic order and appropriate action for the promotion of the development of developing countries and international economic co-operation", para. 21.

89. In connection with the need to protect the most vulnerable groups, T.C. van Boven places responsibility on the international community for ensuring

"... the protection of vulnerable groups such as children, women, migrants, victims of ethnic or racial oppression or indigenous populations. If a human rights programme has any relevance to people, it should first and foremost be concerned with the vulnerable, the weak, the oppressed, the exploited. They always tend to be losers and also - if I may say this in passing - those who try to defend their rights and interests often find themselves standing on the losing side. We should be concerned with these vulnerable groups and we should seek to give them the benefit of the full protection of the international community. The plight of indigenous peoples is often a very acute one. Frequently they are the most under-represented parts of the population, they often have no voice in policies and decisions which directly affect their basic existence or even their survival and in many instances they are not as organized into interest groups as other parts of the population. This places a special responsibility on the international community to examine their needs and to examine ways and means of protecting their rights." 38/

90. In an international order which is so shamefully undemocratic as the present one, it is regrettable that similar tendencies are frequently found in the internal order of its constituent societies. Carlos Andrés Pérez, in comparing the international with the national order, comments:

"The present economic situation and social injustice are the result of this undeniable fact. If the international economic order is radically undemocratic, the same can be said of the national economic order, based as it is on privilege, unemployment and low wages. We can therefore conclude decisively that neither nations nor individuals should live at the expense of the efforts or resources of others, in the way in which great nations manipulate our economies in international society and great national interests exploit the working masses in our individual societies. Processes which at the international level stimulate its characteristic hegemonic structures lead at the national or regional level to the creation of a privileged class and the unjust distribution of wealth which is reflected in the distribution of national income." 39/

91. In a world which is becoming smaller by the day, there is no doubt that national and international developments are increasingly closely related. We can see how changes or events in a country affect the international spectrum.

92. The tremendous progress of science and technology and the commercial expansion of the forces of production have increasingly linked countries' economies, cultures and policies. Modern States cannot live in isolation; just as their policies affect other States so they in turn are influenced by other States. The solution of national problems is unfailingly linked to the solution of international problems.

38/ T.C. van Boven, address at the opening of the thirty-seventh session of the Commission on Human Rights, 2 February 1981, press release HR/922, p. 6.

39/ C.A. Pérez, Análisis de las condiciones económicas, sociales y políticas, imperantes en América Latina, paper submitted to the seminar on human rights in Latin America, Quito, Ecuador, 1979, pp. 3-4.

The present international system is characterized by a structure of production, consumption, accumulation and social organization which lead to enormous concentration on the one hand and great scarcity on the other. There is an excessive accumulation of wealth in a small number of countries while one third of mankind lies exhausted and hungry with no hope except of being able to subsist in the immediate future.

VI. THE RIGHT TO DEVELOPMENT AND THE NEW INTERNATIONAL ECONOMIC ORDER

93. Various resolutions of the General Assembly and the Commission on Human Rights stress the relationship between development and human rights; special mention should be made of General Assembly resolution 34/46 of 23 November 1979, which emphasizes that the right to development is a human right and that equality of opportunity for development is as much a prerogative of nations as of individuals within nations. ^{40/}

94. Development has to be channelled towards truly high goals such as the promotion of human dignity, greater human well-being and a fairer distribution of the fruits of progress, at both the national and international levels. Development must not be construed exclusively in terms of economic and material well-being but must be directed instead towards the physical, moral, intellectual and cultural growth of human beings.

95. In the opinion of a number of scholars, ^{41/} the nucleus of the right to development consists of the following rights: the right to life, the right to an adequate minimum of food, clothing, housing and medical care; the right to a minimum of security and inviolability of the person, the right to freedom of thought, conscience and religion and the right to participation, which is indispensable for the exercise of the other rights mentioned. We agree with those who consider that the right to development is a combination of human rights defined previously and connected with the progress and development of societies and their individual members.

96. As to whether the right to development is an individual or a collective right, Professor Héctor Gros Espiell states as follows:

"The right to development as a right of States and of peoples must necessarily be based on recognition of the right of all men to a life of freedom and dignity in the community. All human beings have the right to life, which implies the right to aspire to a life which gets steadily better. This right to the full development of the individual - which has made it possible to describe the right to development very properly as a fundamental human right - is a basic one which at the same time conditions and implies the right to development of developing States and people. Their progress is justified only when development serves to improve the economic, social and cultural conditions of every human being." ^{42/}

^{40/} On the subject of the right to development see especially E/CN.4/1334; E/CN.4/1340; and E/CN.4/1421.

^{41/} See generally The Right to Development at the International Level, Proceedings of a Colloquium of the Hague Academy of International Law and the United Nations University (Alphen aan den Rijn, Sijthoff and Noordhoff, 1981); and Karel de Vey Mestdagh, "The Right to Development", Netherlands International Law Review, Vol. 28, 1981, pp. 30-53.

^{42/} H. Gros Espiell, Derecho Internacional del Desarrollo, Cuadernos de la Cátedra J.B. Scott, University of Valladolid, para. 22, pp. 41-42.

97. The right to development is thus both a collective right and an individual right, and the same criteria must be applied to it as to the right of self-determination and the right to freedom of association.

98. This is also the opinion of Professor Karel Vasak, who adds that the right to development is the final goal and objective of the new international economic order:

"The right to development has an individual dimension (tying up, as it does, with the right to the full development of one's personality implicitly recognized in Art. 26 of the Universal Declaration of Human Rights which deals with the right to education) but also, and above all, a collective dimension: it will actively relate not only to individuals, but also to human groups (local, national, ethnic and linguistic communities, etc.) as well as the State as the prime guarantor of its implementation at individual level. It is hence clear that the right to development is a consolidated right which, while incorporating a number of recognized human rights, enhances them to impart effective impetus to the institution of a new international economic order. For if the right to development of every man and woman is not the driving factor and ultimate goal of the new international economic order, then this objective of the entire UN system will be lacking in human trend and remain an objective of States and not that of the peoples of the UN." 43/

99. There can be no real justification for directing all national and international efforts in a constantly changing world towards a new international economic order unless the purpose of that order is to promote development where it is needed. Similarly a development policy has no real meaning unless it is directed towards promoting and safeguarding human rights, since otherwise it would have neither soul nor moral substance.

100. The need for development does not, however, mean that the poor countries should be developed according to a pattern identical with or similar to that followed by the industrialized countries or on the basis of the latter's economic structures, which rest on different realities; on the contrary, new methods and patterns of development matched to the realities and needs of each country must be adopted. This does not preclude the establishment of links between integrated development at the international scale and the endogenous and fully autonomous development to which every society is entitled.

101. The duty to ensure conditions conducive to people's economic and social development rests with each State separately as well as with the international community as a whole. At the level of the individual, the right to development involves inter alia the satisfaction of human needs as well as the provision of equality of opportunity for everyone; at the country level, however, the right to development implies the right to pursue economic, social and political policies which are in keeping with the ideology and characteristics of each society and is designed to enable it to progress and raise its level of living and to promote the enjoyment of all human rights.

43/ K. Vasak, For the Human Rights of the Third Generation: The Rights to Solidarity, inaugural lecture; Tenth Study Session of the International Institute of Human Rights, Strasbourg, 2-27 July 1979, p. 4.

102. All nations or States are free to determine their own form of development, but this does not rule out the obligation to achieve a fair distribution of resources among them. This is possible if all citizens are allowed to participate in decision-making and in the formulation and implementation of their development programmes; for this purpose, authentic participation by workers and their representative organizations is extremely important.

103. Human beings must be regarded as the subject of the development process and not merely as its object. This was very properly emphasized by the United Nations Director-General for Development and International Economic Co-operation in June 1978:

"Development is increasingly seen as a process that should be geared to the human factor both as the agent and the beneficiary of development; should be endogenous, involving the autonomous definition by each society of its own values and goals; should rely primarily on the strength and resources of each country; should encompass the transformation of obstructive structures, both national and international; should be in harmony with the environment and respect ecological constraints." 44/

104. Jean-Marie Domenach points out that to reject development as a primary obligation would be to reject the humanization of man:

"Development is not, then, an aim that our societies are free to adopt or reject; it is their very substance and the link between past, present and future generations. If rightly understood, it is not just one particular social duty amongst others, nor even the primary duty: development is the condition of all social life and therefore an inherent requirement of every obligation. Individuals and nations can only be united with each other if they first exist. And, as we have just seen, individual existences and the existence of human societies are a function of progress, in other words of the expansion of human potentialities and of a corresponding increase in material goods. To reject development as a primary obligation would be to reject the humanization of man and therefore to deny the very possibility of a moral system." 45/

105. Many definitions of development have been attempted; their content has varied with the gradually improved understanding of its significance over the past two decades. Kéba M'Baye was the first to articulate the concept of the right to development as a human right, at the inaugural lecture of the International Institute of Human Rights in Strasbourg in 1972; he points out that development implies a quantitative, but above all a qualitative, improvement of human life 46/ and he finds very appropriate the definition of development suggested by Malcolm Adiseshiah:

44/ United Nations press release DEV/205 (Geneva, 1978), p. 2.

45/ J.-M. Domenach, "Our moral involvement in development", United Nations Centre for Economic and Social Information, The case for development: Six studies (New York, Praeger, 1973), p. 134.

46/ Kéba M'Baye, "Emergence of the right to development as a human right in the context of a new international economic order", UNESCO meeting of experts on human rights, human needs and the establishment of a new international economic order, document SS-78/CONF.630/8, Paris, 16 July 1979, p. 5.

"Development is, in the end, a form of humanism, for its finality is the service of man. It is moral and spiritual as well as material and practical. It is an expression of the wholeness of man serving his material needs of food, clothing and shelter, and embodying his moral demands for peace, compassion and charity. It reflects man in his grandeur and shame moving him ever forward and onward, yet ever in need of redemption of his errors and folly." 47/

106. In defining the term development, it is also relevant to recall the words of Pope John XXIII in his famous encyclical Populorum Progressio when he stated that the new name for peace is development and that it cannot be achieved without world solidarity. The same Encyclical proposed the creation of a world assistance fund which could receive part of the immense resources absorbed by the arms race.

107. In concluding the present chapter it is appropriate to refer to a recent report by the Executive Board of UNESCO to the General Assembly which noted that although purely economic considerations are of prime importance they nevertheless do not take into account the full significance of the quest for a new international economic order meeting the needs and aspirations of peoples.

"This order should be founded on principles and values, on an acknowledgement of the demands of justice, equality and solidarity among men, and on a 'desire to live together, actually experienced not simply as a necessity for survival or coexistence but as the deliberate choice of fashioning a common destiny together, with joint responsibility for the future of the human race'. Furthermore, efforts to establish a new international economic order are inseparable from a critical appraisal of development. It cannot be viewed merely as integration into the international system and as a process by which the developing countries catch up with the developed, following one single pattern imposed by the currently industrialized States. Relationships founded on domination and dependence, the serious disparities characteristic of the world today, and particularly the poverty and destitution in which hundreds of millions of human beings are living, can only be surmounted if developing countries are given the chance to embark on the path of endogenous development and pilot their own development in accordance with their own aspirations and values, mobilizing all their energy so to do." 48/

47/ M. Adiseshiah, Let My Country Awake, p. 44.

48/ UNESCO document 108 EX/24 Rev. (1979) Annex I.