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THE RIGHT TO DEVELOPMENT

**THE IMPORTANCE AND APPLICATION OF THE PRINCIPLE OF EQUITY,
AT BOTH THE NATIONAL AND INTERNATIONAL LEVELS**

**Report submitted by the High Commissioner for Human Rights
pursuant to Commission resolution 2002/69**

Executive summary

The Commission on Human Rights, in its resolution 2002/69, invited the High Commissioner for Human Rights, in consultation with the United Nations Conference on Trade and Development (UNCTAD), the World Trade Organization (WTO) and all relevant international organizations and institutions, to submit a report on the importance and application of the principle of equity, as a matter of priority, at both the national and international levels, taking fully into account the agreed conclusions of the Working Group on the Right to Development. This report is submitted pursuant to that invitation.

This report looks at different ways and contexts in which “equity” is used and referred to, and views expressed by various entities, as relevant to the mandate given. It also gives an account of replies received from Member States, UNCTAD, WTO and other relevant international organizations and institutions.

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Executive summary		
Introduction	1 - 2	4
I. "EQUITY" IN PUBLIC INTERNATIONAL LAW AND DEVELOPMENT ECONOMICS, AND ITS GENERAL MEANING	3 - 6	4
II. "EQUITY" IN HUMAN RIGHTS TREATIES AND THE WORK OF THE TREATY BODIES	7 - 18	5
III. "EQUITY" IN INTERNATIONAL DECLARATIONS AND WORLD CONFERENCES	19 - 28	7
IV. "EQUITY" IN THE DECISIONS OF THE COMMISSION ON HUMAN RIGHTS AND ITS SUBSIDIARY MECHANISMS	29 - 33	10
V. INFORMATION RECEIVED FROM MEMBER STATES	34 - 43	12
VI. INFORMATION RECEIVED FROM INTERNATIONAL ORGANIZATIONS, PROGRAMMES AND FUNDS	44 - 50	14
VII. CONCLUSIONS	51	16

Introduction

1. The Commission on Human Rights, in its resolution 2002/69, underlined that in relation to the international economic, commercial and financial spheres, core principles such as equality, equity, non-discrimination, transparency, accountability, participation and international cooperation, including partnership and commitments, are important for the realization of the right to development. In the same resolution it invited the High Commissioner for Human Rights, in consultation with the United Nations Conference on Trade and Development (UNCTAD), the World Trade Organization (WTO) and all relevant international organizations and institutions, to submit a report on the importance and application of the principle of equity as a matter of priority, at both the national and international levels, taking fully into account the agreed conclusions of the Working Group.

2. Invitations for their views and contributions on the topic have been sent to Member States, UNCTAD, WTO and other relevant international organizations and institutions. Replies were received from the Republic of Chile, the Republic of Cuba, the State of Kuwait, the Lebanese Republic, the State of Qatar, the Organisation for Economic Cooperation and Development (OECD), the Convention on Biological Diversity (CBD), the Food and Agriculture Organization of the United Nations (FAO), UNCTAD, the World Food Programme (WFP) and WTO. An account of the replies received forms part of this report.

I. "EQUITY" IN PUBLIC INTERNATIONAL LAW AND DEVELOPMENT ECONOMICS, AND ITS GENERAL MEANING

3. A general meaning of equity is "the quality of being fair and impartial".¹

4. In a judgment of the International Court of Justice (ICJ) equity, as a legal concept, is identified as a direct emanation of the idea of justice.² In legal theory the relationship between the principle of equity and the rules of law can be described as appearing in different degrees. The principle of equity can be seen as a rule of interpretation for a norm, remaining nevertheless within the meaning of that norm (*aequitas infra legem*), a rule or source of law to avoid *non liquet* cases through filling in gaps in law (*aequitas praeter legem*), or a principle which is stronger than the written law, allowing to overrule a law (*aequitas contra legem*).³ Concerning the *aequitas infra legem*, ICJ has pointed out that "it is not a matter of finding simply an equitable solution, but an equitable solution derived from the applicable law".⁴ Its application aims at resolving a concrete case, by striving at a just, equitable result. It can thus be a rule of application or interpretation of law, taking into account all relevant circumstances, but it can also refer to the outcome of that process, which has to satisfy the requirements of justice and equity. However, in the view of ICJ it is the result which is predominant. It states that not every such principle is in itself equitable; it may acquire this quality by reference to the equitableness of the solution. ICJ held the view that the term "equitable principles" cannot be interpreted in the abstract; it refers back to the principles and rules which may be appropriate in order to achieve an equitable result.⁵ It adds that while it is clear that no rigid rules exist as to the exact weight to be attached to each element in the case, this is very far from being an exercise of discretion or conciliation; nor is it an operation of distributive justice.⁶

5. In the literature on development economics the notion of equity or economic inequality has been identified in the context of the notion of social justice. It would require that the formulation and the conduct of economic policies and programmes be geared towards ensuring a fair and just distribution of the “fruits” of the development process between competing regions, population segments and individuals. The “fruits” of development have been defined in terms of commodities and services and the space of distribution in terms of income and consumption levels. It may be mentioned here that this has been questioned, notably by the Nobel laureate Amartya Sen.⁷ In his view, the space to judge inequality is not income or commodities but “capabilities” and “functioning”. He uses the term “functionings” generically to capture the achievements of an individual, i.e. what an individual manages to do or be. In his view, capabilities, in this context, are alternative combinations of functionings that an individual can achieve and over which he or she can exercise a choice. He ultimately attempts to define the notion of equity more broadly in terms of the opportunities available and the ability of individuals to exercise choice and freedoms. He observes that equality in the distribution of means does not necessarily ensure equality in the socially desired outcomes - the rights and freedoms - that are seen as the ultimate goals of a development process.

6. An International Monetary Fund (IMF) Issues Paper states that “perceptions of equity derive from social and cultural norms, and each society will emphasize its own values in forming policies to promote equity. Although there are no universally accepted criteria to judge equity, there is a consensus that equity is improved as the incomes of the least fortunate are raised, and especially as families are raised out of poverty. Views are more varied about the extent to which greater income equality is desired for its own sake. In short, there is general agreement that extreme inequality of income, wealth, or other determinants of individual opportunity is socially unacceptable, but little agreement on precisely what constitutes a fair distribution”.⁸

II. “EQUITY” IN HUMAN RIGHTS TREATIES AND THE WORK OF THE TREATY BODIES

7. Article 28 of the Universal Declaration of Human Rights provides that “everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized”.

8. Article 14 of the International Covenant on Civil and Political Rights provides, *inter alia*, that everyone shall be entitled to a fair and public hearing. General Comment No. 13 of the Human Rights Committee on that article deals with equality before the courts and tribunals and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law. In its General Comment, the Committee also uses terms such as equitable, impartial and independent administration of justice.

9. The International Covenant on Economic, Social and Cultural Rights, in article 11 thereof, recognizes the right of everyone to an adequate standard of living. Paragraph 2 (b), dealing with the right to be free from hunger, provides that States parties shall take, individually and through international cooperation, the measures needed, *inter alia*, to ensure an equitable distribution of world food supplies in relation to need.

10. Although article 2 of the International Covenant on Economic, Social and Cultural Rights does not refer to equity, the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights provide, in their interpretation of “to the maximum of its available resources”, that in determining whether adequate measures have been taken for the realization of the rights recognized in the Covenant, attention shall be paid to equitable and effective use of and access to the available resources.⁹

11. General Comment No. 5 of the Committee on Economic, Social and Cultural Rights, dealing with persons with disabilities, and more specifically with the obligation to eliminate discrimination on the grounds of disability, affirms that appropriate measures taken to undo existing discrimination and to establish equitable opportunities for persons with disabilities should not be considered discriminatory in the sense of article 2, paragraph 3, of the International Covenant on Economic, Social and Cultural Rights, as long as they are based on the principle of equality and are employed only to the extent necessary to achieve that objective.

12. General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, on the right to the highest attainable standard of health, refers to the principle of equity in the context of economic accessibility (affordability) of health facilities, goods and services. Payment for health care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands, in the view of the Committee, that poorer households should not be disproportionately burdened with health expenses as compared to richer households. It also provides for equitable distribution of all health facilities, goods and services.

13. Finally, the reference to some structural obstacles in the contemporary international order to the eradication of poverty, such as unsustainable foreign debt, the widening gap between rich and poor, and the absence of an equitable multilateral trade, investment and financial system, contained in the statement adopted by the Committee on Poverty and the International Covenant on Economic, Social and Cultural Rights, may be mentioned here.¹⁰

14. The equitable sharing in the fruits of national growth is recognized in General Recommendation No. XXI on the right to self-determination of the Committee on the Elimination of Racial Discrimination. It foresees that Governments should be sensitive to the rights of persons belonging to ethnic groups, particularly their right to, inter alia, share equitably in the fruits of national growth.

15. The ninth preambular paragraph of the Convention on the Elimination of All Forms of Discrimination against Women recognizes that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women.

16. General Recommendation No. 21 of the Committee on the Elimination of Discrimination against Women, on equality in marriage and family relations, recognizes that the responsibilities that women have to bear and raise children affect their right of access to education, employment

and other activities related to their personal development and impose inequitable burdens of work on them. It also describes a stable family as one which is based on principles of equity, justice and individual fulfilment of each member.

17. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in Part VI, deals explicitly with the promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families.

18. The seventh preambular paragraph of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography recognizes that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach addressing the contributing factors, including, inter alia, an inequitable socio-economic structure.

III. "EQUITY" IN INTERNATIONAL DECLARATIONS AND WORLD CONFERENCES

19. The importance of equitable distribution of national income and wealth for social progress and development is recognized in the Declaration on Social Progress and Development (arts. 7, 10, 16 and 18).¹¹ This Declaration also emphasizes the importance of equity in its international dimension, such as the importance of favourable terms of trade and of equitable and remunerative prices (art. 7), or the equitable sharing of scientific and technological advances by developed and developing countries (art. 14). It also emphasizes the importance of expansion of international trade based on principles of equality and non-discrimination, and the rectification of the position of developing countries in international trade by, inter alia, equitable terms of trade (art. 23).

20. The importance of just and equitable relations in international economic cooperation and, in particular, a more equitable and efficient distribution of food between and within countries, is recognized in the Universal Declaration on the Eradication of Hunger and Malnutrition.¹²

21. The second preambular paragraph of the Declaration on the Right to Development¹³ recognizes that development aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom. Article 2, paragraph 3, stipulates the respective right and duty of States to formulate appropriate national development policies for the achievement of that aim. According to article 8, paragraph 1, States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.

22. The Vienna Declaration and Programme of Action,¹⁴ reaffirming the right to development, emphasizes the importance of cooperation of States and the importance of the international community for promoting an effective international cooperation. It particularly

recognizes that lasting progress towards the implementation of the right to development requires effective development policies at the national level, as well as equitable economic relations and a favourable economic environment at the international level (I, para. 10). It also recognizes that the right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations (*ibid.*, para. 11).

23. Equity is frequently used in the five-year review of the World Summit for Social Development.¹⁵ The General Assembly underlines that social development requires not only economic activity, but also reduction in the inequality in the distribution of wealth and more equitable distribution of the benefits of economic growth within and among nations, including the realization of an open, equitable, secure, non-discriminatory, predictable, transparent and multilateral rule-based international trading system, maximizing opportunities and guaranteeing social justice, and recognizing the interrelationship between social development and economic growth. Equity is also used in terms of equitable, development-oriented and durable solutions to the external debt and debt-servicing burdens of developing countries; inequitable distribution of opportunities, resources and incomes, and access to employment and to social services, causing social exclusion and marginalization; equitable access to education and health services, income-earning opportunities, land, credit, infrastructure and technology, as well as official development assistance and debt reduction; the equitable provision of basic social services for all; and greater equity in health financing and more generally health equity. The terms “equality” and “equity” between women and men are also used.

24. During the five-year review of the Fourth World Conference on Women,¹⁶ equity was used in the context of access to, and allocation and use of social services and appropriate existing resources. It is also referred to in the context of growth with equity. However, suggestions to replace the principle of gender equality by that of “gender equity” were not endorsed, since the term “equity” was considered to be influenced by subjective criteria.¹⁷

25. In the United Nations Millennium Declaration¹⁸ heads of State and Government recognized, in addition to their separate responsibilities to their individual societies, a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. They further recognize that while globalization offers great opportunities, at present its benefits are very unevenly shared, while its costs are unevenly distributed. Only through broad and sustained efforts to create a shared future, based upon our common humanity in all its diversity, can globalization be made fully inclusive and equitable. Among the fundamental values considered to be essential to international relations in the twenty-first century the Millennium Declaration includes equality, solidarity and shared responsibility. Equality is described as meaning that no individual and no nation must be denied the opportunity to benefit from development. It also describes solidarity as meaning that global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. It is added that those who suffer or who benefit least deserve help from those who benefit most. Heads of State and Government are further committed to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system.

26. Equity is also frequently used in the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.¹⁹ It emphasizes the importance of equitable participation of all, without

discrimination, in domestic as well as global decision-making and recognizes that the equal participation of all individuals and peoples in the formation of just, equitable, democratic and inclusive societies can contribute to a world free from racism, racial discrimination, xenophobia and related intolerance. It recognizes that inequitable political, economic, cultural and social conditions can breed and foster racism, racial discrimination and xenophobia and related intolerance, which in turn exacerbate inequity. It also recognizes that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion. Equity is also referred to in the context of globalization; the need for fair, just and equitable treatment of migrants in society and in the workplace; the role of education, in particular human rights education, as a determining factor in the promotion, dissemination and protection of the democratic values of justice and equity and its contribution to more inclusive societies; adequate assistance, on an equitable basis, to host countries of refugees and displaced persons; factors preventing equal access to, and the equitable presence of, people of African descent at all levels of the public sector, including the public service, and in particular the administration of justice; the fair, balanced and equitable representation of the diversity of the respective societies in the media; and an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and the rejection of all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance.

27. In the Monterrey Consensus adopted at the International Conference on Financing for Development²⁰ heads of State and Government affirmed their goal to eradicate poverty, achieve sustained economic growth and promote sustainable development as they advance to a fully inclusive and equitable global economic system. They also committed themselves to promoting national and global economic systems based on the principles of justice, equity, democracy, participation, transparency, accountability and inclusion. Equity is also referred to in the context of equitable and efficient tax systems and administration; the recognition that a universal, rule-based, open, non-discriminatory and equitable multilateral trading system, as well as meaningful trade liberalization, can substantially stimulate development worldwide, benefiting countries at all stages of development; and the effective and equitable participation of developing countries in the formulation of financial standards and codes.

28. The commitment to build a humane, equitable and caring global society cognizant of the need for human dignity for all is recognized in the Johannesburg Declaration on Sustainable Development.²¹ In the Declaration and Plan of Implementation equity is further referred to in the context of poverty eradication, protecting and managing the natural resource base of economic and social development, globalization and health. It is used in terms of equitable and efficient food distribution systems; appropriate gender-sensitive policies and programmes, including public and private investment that help eliminate inequities facing mountain communities; the fair and equitable sharing of benefits arising out of the utilization of genetic resources; the claim for fully inclusive and equitable globalization; the promotion of open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial systems; equitable and improved access to affordable and efficient health care services; equitable access to land tenure; and strengthening ongoing efforts to reform the existing international financial architecture to foster a transparent, equitable and inclusive system that is able to provide for the effective

participation of developing countries in the international economic decision-making processes and institutions, as well as for their effective and equitable participation in the formulation of financial standards and codes.

IV. "EQUITY" IN THE DECISIONS OF THE COMMISSION ON HUMAN RIGHTS AND ITS SUBSIDIARY MECHANISMS

29. During its fifty-eighth session the Commission on Human Rights, *inter alia*, reaffirmed the collective responsibility of States to uphold the principles of human dignity, equality and equity;²² the commitment to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system;²³ that the permanent solution to the foreign debt problem lies in the establishment of a just and equitable international economic order based, *inter alia*, on open, equitable, secure, non-discriminatory, predictable, transparent and multilateral rule-based international financial and trading systems;²⁴ that political commitment, social justice and equal access to social services are conditions *sine qua non* for the eradication of poverty and that it is essential for States to foster participation by the poorest people in the decision-making process;²⁵ the necessity for establishing new, equitable and global links of partnerships and intra-generational solidarity, and for promoting inter-generational solidarity for the perpetuation of humankind;²⁶ the importance of a fair and equitable justice system;²⁷ the necessity to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;²⁸ that popular participation, equity, social justice and non-discrimination are essential foundations of democracy, and that inequitable political, economic, cultural and social conditions can breed and foster racism, racial discrimination, xenophobia and related intolerance, which in turn exacerbate inequity.²⁹

30. The Commission finally affirmed that a democratic and equitable international order requires, *inter alia*, the realization of the right of peoples to self-determination and to permanent sovereignty over their natural wealth and resources, the right to development, the right to peace, and the right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States; solidarity as a fundamental value by virtue of which global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice, ensuring that those who suffer or who benefit least receive help from those who benefit most; transparent, democratic, just and accountable international institutions; the right to equitable participation in domestic as well as global decision-making; the promotion of a free, just, effective and balanced international information and communication order; and the promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in international economic, commercial and financial relations.³⁰

"Equity" in the conclusions and recommendations of the open-ended working group on the right to development

31. The open-ended working group on the right to development, in its conclusions and recommendations contained in the report on its third session (E/CN.4/2002/28/Rev.1),

underlined that “in relation to the international economic, commercial and financial spheres, core principles such as equality, equity, non-discrimination, transparency, accountability, participation and international cooperation, including partnership and commitments, are important for the realization of the right to development” (ibid., para. 100). Issues stressed by the Working Group at the international level included the strong need for policies and measures, at the national and global levels alike, to respond to the challenges and the opportunities of globalization, in order to make the process of globalization fully inclusive and equitable. It also dealt with, inter alia, participation of developing countries and economies in transition in international decision-making and norm-setting, international trade issues, financing for development and the debt burden, as well as good governance, HIV/AIDS and the role of women and the rights of children.

“Equity” in the reports of the independent expert on the right to development

32. For the independent expert on the right to development the concept of equity and (social) justice lies at the heart of the right to development. In his opinion, the entire human rights movement is founded on the equal treatment of every individual human being, equality of opportunity and the demand for justice. The movement for formulating the right to development was also motivated initially to bring about a more egalitarian international economic order. The aspiration to realizing equity and social justice remains as a fundamental motivation of all human rights claims and cannot be separated from any programme for the realization of the right to development.³¹ Equity is derived from the idea of equality of all human beings, and is clearly associated with fairness or the principles of a just society. The right to development has to be realized in a rights-based manner, the main elements of which are participation, accountability, transparency, equity and non-discrimination. Equity is reduction of disparities and demands that the most vulnerable and least privileged groups be cared for. In his opinion, human rights instruments relate to equality in law and in rights, but stop short of providing for equality in income or the level or amount of benefits accruing from the exercise of the rights. When the questions of sharing those benefits were discussed, the human rights concern was expressed in terms of “fairness” and of being “equitable and just”, but not of absolute equality.³²

“Equity” in the report on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution

33. The Special Rapporteur of the Sub-Commission, in his final report,³³ identified income distribution as a good indicator of the degree of equity or inequity of a given economy and society at the international and at the national levels, of the presence or absence of opportunities within a sector of the population or a geographical area, and a tool for monitoring the fulfilment of human rights.³⁴ In his opinion, it is not possible to determine “ideal” income distribution, but it is possible to signal intolerable levels of income inequality which would amount to a violation of human rights. The internationally recognized human rights are the best criterion by which to determine when an economic situation becomes a situation of permanent and persistent violation of the rights of individuals, and to establish minimum acceptable or unacceptable standards at the national and international levels.³⁵

V. INFORMATION RECEIVED FROM MEMBER STATES

Information received from the Republic of Chile

34. The Government of the Republic of Chile highlights the importance of the principle of equity as a general ethical and political starting point for government policies and strategies to help promote, protect, respect and realize the right to development. It likewise reaffirms the importance of equal opportunities as a basis for development strategies to bring about greater equity and social inclusion. Effective poverty reduction and equitable access for everybody to the benefits of economic growth are not just a moral imperative, but also a precondition for sustainable growth. While highlighting the priority of poverty reduction for the realization of the right to development, the Government also emphasizes that increasing attention should be given to issues such as security, culture and civic involvement. The Government of Chile not only stresses the importance of creating synergy between various kinds of public policy instruments for sustainable development, but also underlines the importance of safeguards to protect the universal social benefits in the event of an unfavourable economic outlook requiring adjustments. Finally, the importance of universal access to the social services that are essential for the development of human resources is pointed out.

35. Referring to the issue of globalization, in particular trade liberalization, the Government of Chile calls for strategies in pursuit of equity to be linked to countries' macroeconomic management and their role in the international trade arena. Likewise, the Government of Chile emphasizes the need for closer cooperation among countries and between countries and multilateral cooperation agencies.

Information received from the Republic of Cuba

36. The Republic of Cuba recalls that, according to the provisions of the Vienna Declaration and Programme of Action, the realization of the right to development requires not only effective policies at the national level, but also equitable economic relations and a favourable international environment. Under the Declaration on the Right to Development, the right is a right of peoples as well as of individuals, and ensuring its full realization is the responsibility not only of Governments, but also of the international community. The Republic of Cuba also reaffirms that respect for certain basic principles, such as equality, social equity, non-discrimination, transparency, accountability, participation, international cooperation and fulfilment of commitments undertaken, is essential to the enjoyment of the right to development. Finally, it also re-emphasizes the need to broaden and reinforce the developing countries' participation, on an equal footing, in international processes of decision-making and standard-setting in economic, trade and financial matters.

37. The Republic of Cuba, in addition, lists obstacles, both at the national and the international level, to the realization of the right to development, such as lack of political will, resource constraints, unequal distribution of wealth and property, insufficient involvement of people in decision-making, corruption, disinvestment and debt burden, unequal terms of trade, protectionist policies and decline of official development assistance.

Information received from the State of Kuwait

38. The State of Kuwait gives examples of the means used by the State to realize human development. Among those are subsidizing the costs of public services; a support system to ease the financial burdens faced by low-income sectors of the population; ensuring access to comprehensive health care; devoting considerable attention to education; adopting specific measures in the domain of the child and the family, such as establishing mother and child centres; conducting awareness-raising campaigns relating to diseases affecting public health; activities undertaken by various entities, like the Kuwaiti Cultural Club, the Scientific Centre, the Kuwaiti Centre for Solidarity and the Early Intervention Centre for the Prevention of Children's Disabilities; and the Higher Committee for the Child and the Family.

39. With regard to poverty eradication, at the national level, the State of Kuwait highlights the importance of "Zakat House" (a charitable institution) and other non-governmental organizations providing aid and assistance to numerous deserving families, both to beneficiaries inside and outside Kuwait. At the international level, the State of Kuwait points to its role as a leading donor country. It emphasizes the importance of international cooperation in support of countries' efforts to resolve their social and economic problems and thus to strengthen the protection of human rights and human development. It particularly highlights the role of the Kuwaiti Fund for Economic Development and its participation, at the highest levels, in international events.

Information received from the Lebanese Republic

40. The Lebanese Republic distinguishes "equity" from "equality" and "justice" in that it focuses on equality of opportunity, means and inputs rather than results and outputs, and embodies the principle that individuals have the responsibility for making the best of opportunities. The final outcome and goal underlined by the term "equality" is equality between people, regardless of differences in respect of abilities and needs, calling ultimately for the achievement of equal standards of life for all people. The expression "equity" takes account of this beatific dimension to the term "equality" and therefore puts the stress on equality of rights, adding a touch of relativism and realism to this concept. Hence, the concept of equality no longer equates perfectly with that of justice, but acquires a meaning that does not necessarily imply that people should be equal in respect of their effective circumstances of life. The concept of "justice" is based on a view of people's rights, which takes account of the effective differences between people. It rejects the notion that disparities are immutable and implies a continuous striving towards the ultimate aim of reducing these disparities. The Lebanese Republic suggests that the expression "equity" has been chosen, perhaps because it implies a desire to avoid the explicit meaning of the term "justice" by giving the concept of equity a meaning that is more subtle than the other two. A distinctive characteristic of the term "equity" is that it allows plenty of space for flexibility and subjectivity in the definition given thereto, since neither previous theoretical output nor practical experience allows to establish with sufficient clarity the boundaries and criteria for determining what is equitable and what is not. The Lebanese Republic gives the term "equity" a meaning close to that of (social, economic and political) justice at the national level, and, in international relations, to the concept of justice and the equal right to participation and democracy in the political, economic and other spheres.

41. In the view of the Lebanese Republic, the adoption of the principle of international equity entails a commitment to determine where international and national responsibilities lie for the impairment of the process of development and poverty eradication and the failure to adhere to the goals proclaimed at global conferences. It particularly deals with the question of equity in the context of globalization, emphasizing that contemporary international relations are characterized by a lack of justice and even-handedness and restricted participation in international decision-making. It also considers the relationship between equity and good governance; and finally stresses the need for overhauling the global trading system to make it more equitable, recognizing the social responsibilities of States and their right to effective participation in the formulation of the rules, which govern the world.

Information received from the State of Qatar

42. For the State of Qatar equity has become a comprehensive social concept implying equality of opportunity for individuals and consequently the removal of all barriers impeding access to economic and political opportunities. Access to these opportunities must also be ensured to future generations. The State of Qatar believes that the principle of equity and the right to development are bound together by a shared vision and common purpose, which is to promote the freedom, well-being and dignity of all human beings everywhere with a view to achieving: emancipation from discrimination and poverty, the freedom to develop and realize one's human potential, the freedom from threats to personal security, the freedom of thought and expression and to participate in decision-making and assemblies, and the freedom to undertake dignified work without exploitation.

43. Finally, the State of Qatar emphasizes that the application of the principle of equity requires States to draw up a policy agenda including: a fixed timetable for the elimination of legal discrimination and a framework for the promotion of equality before the law; the implementation of educational programmes and the improvement of health standards; and efforts at the national and international level to eliminate bureaucratic barriers and to target programmes to greater economic and political opportunities. The application of the principle of equity also implies the need for income redistribution at the international level through official development assistance.

VI. INFORMATION RECEIVED FROM INTERNATIONAL ORGANIZATIONS, PROGRAMMES AND FUNDS

Information received from the Organisation for Economic Cooperation and Development (OECD)

44. OECD informs that the issue of equity is one of the core principles of the work of the OECD Development Assistance Committee (DAC). In particular, the DAC guidelines and policy orientations adopted in 2001 by the DAC Ministers and Heads of Agency on poverty reduction, conflict prevention, sustainable development and trade capacity-building reflect this. All of them imply that addressing inequality, fostering gender equality, and linking major economic reforms to equity concerns are key to development. OECD also points to the Ministerial statement on "Rising to the global challenge: partnerships for reducing world poverty", which says that "making growth pro-poor requires equitable participation by poor men

and women in generating and benefiting from growth". DAC has also constantly stressed the operational relevance of equity by analysing best practices and lessons learned, which are at the basis of policy guidance in the field of development cooperation. In this respect, equity issues are particularly prominent when the links between different development themes are addressed.

Information received from the Convention on Biological Diversity (CBD)

45. CBD, in its contribution, stresses that one of its objectives is the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. It underlines that the principle of equity is of paramount concern for access to genetic resources and the fair and equitable sharing of the benefits arising out of the utilization of those resources. It is also of paramount importance with respect to the role of indigenous and local communities, and their traditional knowledge, innovations and practices in the conservation and sustainable use of biological diversity; the role of women, particularly women from indigenous and local communities, in the conservation and sustainable use of biological diversity; and finally as concerns the funding necessary to implement the Convention and insure the conservation and sustainable use of their biological wealth.

Information received from the Food and Agriculture Organization of the United Nations (FAO)

46. FAO strongly supports the principle of equity and strives to promote it in its work. It particularly regards the equitable access to natural resources on which productive activities are dependent as being of the utmost importance. In its contribution, FAO focuses on the importance of equity with respect to ethics in food and agriculture, the right to food, farmers' rights, gender, HIV/AIDS and fisheries.

Information received from the United Nations Conference on Trade and Development (UNCTAD)

47. UNCTAD recalls that one of the findings in the *Least Developed Countries Report 2002*, entitled "Escaping the Poverty Trap", is that there is an imbalance and inequity in sharing global prosperity. At the national level, UNCTAD states that the high incidence of poverty in the poorest countries is not so much the result of an uneven distribution of national income as the sheer absence of it. In these poor countries there is a situation of generalized poverty, and available resources, even when more equally distributed, are barely sufficient to cater for the basic needs of the population. It adds that the lack of effective policies in these countries to address problems of employment and income generation, coupled with their structural handicaps and vulnerability to various shocks, have exacerbated the level of destitution and deprivation.

48. At the international level, UNCTAD points out that an unfavourable international economic and political environment has exacerbated the poverty trap in poor countries. The factors referred to are, in particular, declining official aid, heavy debt burdens, commodity price instabilities, including sharp declines, protectionist measures taken by developed countries against exports from these countries, and gaps between policy prescriptions sponsored by the

international financial institutions in the form of adjustment programmes and support measures required to implement them. It is therefore imperative to find ways and means of applying the principle of equity to shared prosperity in order to ensure global peace and security through, among other things, the realization of the right to development. UNCTAD finally points to the vast inequity between developed and developing countries as regards the growth of electronic commerce (e-commerce) and information and communication technology, which adds a new dimension to the widening economic gap between developed and developing countries.

Information received from the World Food Programme (WFP)

49. WFP highlights that its work is guided by the principles of equality and non-discrimination, as to ethnic origin, gender, nationality, political opinions, race or religion. The principle of gender equality is particularly central to the work of WFP. WFP strives towards the goal of gender equality and empowerment of women as an effective way to combat hunger and poverty and stimulate sustainable development. For WFP, gender equality reflects the equality of men and women before the law, an equal sharing of power, equality of opportunities, including equality in access to human and other productive assets, equal pay for work of equal value, and equality of voice, including political representation. WFP also draws attention to the newly prepared WFP Gender Policy for the period from 2003 to 2007, which takes into account the important role women play in enhancing household food security and the continued need to address gender-related inequalities.

Information received from the World Trade Organization (WTO)

50. WTO, in its contribution, refers to the Doha Development Agenda adopted at the Fourth Ministerial Conference of the World Trade Organization in Qatar. It recalls that this Agenda has launched a new round of multilateral negotiations and placed development issues at the heart of WTO work. Finally, it underlines that equality, equity, non-discrimination, transparency, accountability, participation and international cooperation are principles that are implicit in the current negotiating processes.

VII. CONCLUSIONS

51. **There is no definition of “equity” contained in any of the human rights instruments adopted under the United Nations auspices. Nevertheless, equity is, at times, referred to in these instruments and in the general comments/recommendations adopted by treaty monitoring bodies. It appears more frequently in the decisions of the main United Nations deliberative bodies active in the field of human rights and in the reports of some of the experts nominated by the Commission on Human Rights or the Sub-Commission on the Promotion and Protection of Human Rights. Equity is also frequently referred to in global conferences. In the United Nations Millennium Declaration, in particular, the collective responsibility to uphold the principles of human dignity, equality and equity at the global level is recognized, in addition to the separate responsibility to individual societies.**

Notes

- ¹ The New Oxford Dictionary of English, Oxford University Press, 1998.
- ² *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, *I.C.J. Reports 1982*, p. 60, para. 71.
- ³ See, for example, *Encyclopedia of Public International Law*, Elsevier, 1995.
- ⁴ *Fisheries Jurisdiction (United Kingdom of Great Britain and Northern Ireland v. Iceland)*, *I.C.J. Reports 1974*, p. 33, para. 78.
- ⁵ *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, *I.C.J. Reports 1982*, p. 59, para. 70.
- ⁶ *Ibid.*, p. 60, para. 71.
- ⁷ Sen, A.K.: *Commodities and capabilities*, Amsterdam: North-Holland 1985; *On Economic Inequality* (expanded edition with a substantial annex by James E. Foster and Amartya Sen), Oxford, 1997.
- ⁸ IMF Conference on Economic Policy and Equity, Issues Paper prepared by the Expenditure Policy Division, <http://www.imf.org/external/np/fad/equity/issues.htm>.
- ⁹ E/C.12/2000/13, para. 27.
- ¹⁰ E/C.12/2001/10, para. 21.
- ¹¹ General Assembly resolution 2542 (XXIV) of 11 December 1969.
- ¹² E/CONF.65/20, chap. IV.
- ¹³ General Assembly resolution 41/128 of 4 December 1986.
- ¹⁴ A/CONF.157/23.
- ¹⁵ A/S-24/8/Rev.1.
- ¹⁶ A/S-23/10/Rev.1.
- ¹⁷ <http://www.unhchr.ch/women/focus.html>.
- ¹⁸ A/RES/55/2.
- ¹⁹ A/CONF.189/12.
- ²⁰ A/CONF.198/11.

²¹ A/CONF.199/20.

²² Resolution 2002/28, para. 2.

²³ Ibid., para. 3.

²⁴ Resolution 2002/29, para. 7.

²⁵ Resolution 2002/30, para. 1.

²⁶ Resolution 2002/73, tenth preambular paragraph.

²⁷ Resolution 2002/79, fifteenth preambular paragraph.

²⁸ Resolution 2002/86, para. 4.

²⁹ Resolution 2002/34, paras. 1, 9 and 12.

³⁰ Commission on Human Rights resolution 2002/72.

³¹ A/55/306, para. 17.

³² See, for example, E/CN.4/2002/WG.18/2, para. 26, and E/CN.4/2002/WG.18/6, paras. 44-47 and 8-12.

³³ E/CN.4/Sub.2/1997/9 and E/CN.4/Sub.2/1998/8.

³⁴ E/CN.4/Sub.2/1997/9, paras. 14 and 81.

³⁵ Ibid., para. 20.
