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Right to Development as a Human Right

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The ILO and the Right to Development

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### Relevance of ILO principles and objectives

The right to development may be considered as inherent in the objectives set for the International Labour Organisation in the Preamble of its Constitution of 1919. These can be succinctly put as peace founded on social justice through the improvement of conditions of labour.

An explicit recognition of the right to development is later to be found in the Declaration concerning the Aims and Purposes of the International Labour Organisation, adopted by the 26th Session of the General Conference of the ILO meeting in Philadelphia in 1944. The Declaration, the text of which is annexed to the ILO Constitution, affirms that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity" and that "the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy".

The Declaration makes it a responsibility of the ILO to examine and consider all international economic and financial policies and measures in the light of this fundamental objective and to further programmes conducive to its achievement. The Declaration finally affirms that the principles set forth in it are fully applicable to all peoples everywhere as a matter of concern to the whole civilised world.

### ILO means of action and basic approach

ILO action to attain these objectives has taken two main forms.

On the one hand, the Organisation has built up a comprehensive body of international standards (to date 169 Conventions, which totalised 5,460 ratifications as of December 1989; and 176 Recommendations) covering the broad range of questions falling within its competence, including many specific aspects of the rights established by the Universal Declaration and international covenants on human rights, of which three in particular are regarded as fundamental to ILO objectives: freedom of association, freedom from discrimination and freedom of labour. The implementation of ILO standards and member States' obligations in this respect are provided for in the ILO Constitution and subject to a system of supervision which includes regular and contentious procedures as well as special procedures to protect trade union rights.

On the other hand, the ILO provides, through technical co-operation, its services and assistance for the formulation and implementation of national policies, programmes, laws and regulations; in the establishment of institutions required to develop and sustain such national action; and in the development and training of the human resources and personnel concerned.

To back up these two forms of action, the ILO carries out research and studies and also clearing-house functions in respect of information on problems and developments in its fields of competence.

The approach of the ILO in pursuing its action is dictated by its structure and mandate.

By its unique tripartite structure, the ILO is committed to freedom of association and to participation of the productive forces in the formulation and implementation of measures of economic and social development. The Organisation's programmes and activities, like ILO standards, are the result of tripartite deliberations by bodies composed of government, employers' and workers' representatives. A great many ILO Conventions and Recommendations include implementing measures that provide for the consultation and participation of employers and workers. The need for such consultation is reasserted in the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152).

The promotion of popular participation in development receives particular attention in the rural sector. The Rural Workers' Organisations Convention, 1975 (No. 141), and Recommendation, 1975 (No. 149), made it an objective of national policy concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organisations of rural workers as an effective means of ensuring their participation in economic and social development and in the benefits resulting therefrom.

Finally, the role of co-operatives as one of the important instruments for economic, social and cultural development as well as human advancement in developing countries is stressed by the Co-operatives (Developing Countries) Recommendation, 1966 (No. 127).

The ILO's mandate for social justice, in setting its objectives, also commands its approach to development. From its founding principles, the ILO derives the belief that development must be a balanced economic and social process aiming at the human person's material well-being and spiritual needs, in which respect for basic workers' and human rights constitute both a condition and an incentive.

#### ILO's current activities and concern - some relevant examples

Through its action as described above, the ILO is contributing to the implementation of the right to development as regards areas falling within its competence. Some examples can be given among the ILO's current activities and concern.

A major factor working for or against the development process is the role played by or withheld from certain groups or categories of the population. Restrictions to participation through discrimination on the grounds of race, sex, social origin, among others, deprive the people concerned and the community of their opportunity and potential for development.

## Apartheid

The negative impact of apartheid on the right to development was stressed once again in the revised Declaration on Action against Apartheid in South Africa and Namibia, adopted by the International Labour Conference at its 75th Session in June 1988. In the view of the Conference, developments which have taken place since the adoption by the ILO of the Declaration and Programme for the Elimination of Apartheid in 1964 have demonstrated that apartheid continues to deprive the Black population of employment and training, full enjoyment of freedom of association and the right to organise and equality in the field of labour. The Declaration calls for an increase in ILO's activities to bring appropriate assistance to the countries, peoples and organisations concerned. Steps taken by the ILO to give effect to the Declaration are reported regularly to the ILO Governing Body through its Committee on Discrimination.

The most recent of these reports, in November 1989, referred to the following activities which had been or were being carried out in the fields of technical co-operation covered by the Declaration: the United Nations Vocational Training Centre for Namibia in Cuacra, Angola, and the Pilot Vocational Training Centre for the African National Congress (ANC) of South Africa in Dakawa, Tanzania; the training of rehabilitation staff for disabled victims of liberation wars, refugees and migrant workers at the joint ILO/OAU regional programme concerning the African Rehabilitation Institute; a project, financed by Norway, for the vocational rehabilitation of disabled victims of liberation wars, situated in Zambia; practical training and experience in employment and development planning with the Southern African Team for Employment Promotion (SATEP) in Lusaka, Zambia, as well as employment and basic needs training and a study on skills profiles of Black South Africans, under the same auspices; a study tour for heads of department and senior officers of SWAPO on agricultural production and popular participation in Zimbabwe; the training of labour administrators for Namibia; a large number of activities in the field of workers' education, in co-operation with trade unions from the area including ATUCC, COSATU, NACTU and SACTU; workers' education assistance to migrant workers in Botswana, Lesotho and Mozambique; small-enterprise development for refugees in Zambia.

## Women

Equal opportunity and treatment for women and their full integration in development is another basic concern of the ILO, echoing that of article 8 of the Declaration on the Right to Development. Specific standards have been adopted by the ILO aiming at equality of remuneration, the elimination of all discrimination on the grounds of sex or family responsibilities in matters of employment and occupation, and the protection of maternity. In 1975, on the occasion of the International Women's Year, the ILO Conference adopted a Declaration on Equality of Opportunity and Treatment for Women Workers and a Plan of Action with a view to promoting such equality. In 1985, the Conference adopted a Resolution on Equal Opportunity and Equal Treatment for Men and Women in Employment in which it reaffirms the Declaration and Plan of Action of 1975 and calls for the intensification of measures to promote equality of women and men in employment and in society as a whole. The 1985 resolution also highlights the specific areas where action is needed at the national level: equal access to employment and training; equality of remuneration; working conditions and environment; maternity protection; workers with family responsibilities; social security; participation.

As the 1975 Declaration, the 1985 resolution lists a number of means and mechanisms to implement the specific measures. These include establishing appropriate national tripartite machinery on the status of women workers and strengthening national equal opportunity bodies and improving the data base to reflect more fully the contribution of women to productive activities and the benefits they derive from development. Moreover, the resolution outlines the action to be undertaken by the ILO, including standard setting, taking into account the question of equal opportunity and treatment in agendas of various types of standing committees and meetings, research and studies, collection and dissemination of data and the promotion of technical co-operation programmes. In 1987, a Plan of Action was adopted which provided a framework for ILO efforts in favour of women workers through the full integration of women's needs and concerns into all ILO activities.

As can be seen, the issue of women and the right to development is being tackled in ongoing ILO action following the guide-lines put forward in the major policy documents adopted in 1975 and 1985.

### Child labour

Yet another priority task of the ILO since its establishment in 1919 concerns the protection of the child in matters of employment and work. A fairly comprehensive body of ILO standards has been adopted concerning minimum age and related measures for the protection of children at work in all sectors of activity. The problem of child labour remains however a prevalent phenomenon and is still very much in the forefront of ILO's current concern and activities.

An analysis of the situation and the issues involved was made in the report on child labour presented by the Director-General of the ILO to the 69th Session of the Conference in 1983. Child labour is due mainly to one basic reason: poverty bred by underdevelopment. Recognising that the gradual elimination of child labour requires co-ordinated action in the fields of economic and social policy, the report stressed that action to protect children by laws against at least the worst forms of exploitation and dangerous working conditions need not and should not await structural changes or significant improvements in general standards of living. Among the major elements of the combat against child labour that are suggested in the report, the first and foremost is a strong commitment to pursue a national policy for the effective abolition of child labour. Pending the attainment of that objective, steps must be taken to improve the conditions of working children through legislative action backed by effective enforcement machinery.

### Indigenous peoples

The collective and individual rights of indigenous peoples, particularly as regards questions of development, also figure prominently in current ILO activities, through the revision of the Indigenous and Tribal Populations Convention, 1957 (No. 107), resulting in the adoption of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). The main thrust of the revised Convention was a shift of emphasis from the former integrationist approach of Convention No. 107 to that of respect for the values and identity of the peoples concerned. More particularly, in the terms of Article 7 of Convention No. 169, "the peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the

formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly".

At the same time that it adopted the new Convention, the International Labour Conference also adopted a resolution on ILO action concerning indigenous and tribal peoples calling, in particular, for international collaboration in developing activities to achieve the objectives of the Convention.

#### Extreme poverty

Denial of the right to development in its most flagrant as well as massive manifestation is found in the conditions of extreme poverty in which hundreds of millions of people are living today, mostly in Third World countries. The ILO's response to this situation is based mainly in its efforts to promote full, productive and freely chosen employment, considered as a major goal of policy and as the means of achieving in practice the realisation of the right to work recognised in the Universal Declaration and the International Covenant on Economic, Social and Cultural Rights. Measures to be adopted for attaining this goal are provided for, in particular, in the Employment Policy Convention, 1964 (No. 122), and in the Employment Policy Recommendation, 1964 (No. 122), and the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). In addition to these instruments on employment policy, other particular aspects of the right to work are dealt with in many other instruments such as those on human resources development, vocational guidance, training and rehabilitation, employment services, protection against arbitrary termination of employment and income protection in the event of unemployment.

Action for the practical implementation of these measures is undertaken within the framework of the World Employment Programme launched by the ILO in 1969 and on the lines of the Declaration of Principles and Programme of Action adopted by the World Employment Conference convened by the ILO in 1976. According to this programme of action, national development policies should have as a priority objective the promotion of employment and the satisfaction of the basic needs of the population, such needs being a country-specific and dynamic concept which includes individual consumer requirements of a family and essential community services and should be placed within a context of national independence, the dignity of individuals and peoples and their freedom to chart their destiny without hindrance.

A recent development of particular importance was the High-Level Meeting on Employment and Structural Adjustment, convened by the ILO in November 1987. The Meeting recognised the need for measures to encourage stable, sustained non-inflationary growth and for a flexible response to change, while stressing the importance of scrutinising the impact of stabilisation and adjustment programmes on poverty groups. International organisations were seen as having an important role to play in helping countries to design programmes which, while achieving their adjustment objectives, maintained essential social services and provided the poor with productive assets. The Meeting recognised the need fully to integrate in decision-making on adjustment policies, their social dimensions and consequences.

It is accordingly in keeping with its constitutional mandate, and with due regard to the issues confronting the world community, that the ILO considers it important, in the current preparation of the International Development Strategy for the Fourth United Nations Development Decade, that the question of employment be included as an additional element in the Strategy and, in that context, to pay due regard to the key role of

international labour standards, those relating to employment and the right to work as well as to other basic human rights, in ensuring that any development strategy duly places the human being at the centre of its objectives in accordance with the principle proclaimed both by the ILO Declaration of Philadelphia of 1944 and the Declaration on the Right to Development.

The right to development:  
Problems and criteria of implementation

Development is described in the Declaration on the Right to Development as a "comprehensive economic, social, cultural and political process".

The examples given briefly above of ILO action having a bearing on the realisation of the right to development show that such action, like that of any other organisations concerned, can only be part of this comprehensive process. In setting the general principles and objectives for the right to development, the Declaration refers to most of the major issues of international relations and co-operation and those of promotion and implementation of human rights and fundamental freedoms that are confronting the world today.

A first problem posed by the implementation of the right to development would lie in the comprehensive nature of the process itself and, consequently, the complexity of the issues involved. To recognise this means at the same time to recognise the diversity, if not to say dispersion, of the mechanisms and centres for decision and action that are involved in the process at the national and international levels and the diversity and even divergency of views and interests that are brought to bear on the matter.

A first hurdle on the way to implementation of the right to development would be therefore that of policy. The Declaration should serve to foster a sense of commitment and of urgency of individuals, States, and the international community to find solutions to the major issues at stake so that the objectives of development can be pursued and the means to attain them made available.

The next problem may be termed a technical one and concerns the criteria for development. The difficulty here appears not to be any lack of parameters for development but rather to concern the selection of such parameters from among those established by economists, sociologists, health or education specialists, to mention but a few, and the comparative weighting to be attached to each of the basic parameters that may be selected to orient and measure development. The responsibility will rest with decision-makers at the national and international levels to strike a balance between competing economic, social, financial and other factors. The guiding principle for this is set by the Declaration on the Right to Development which sees the human person as the central subject of the process. The ILO is committed to that principle which is in full accord with the aims and purposes of the Organisation as proclaimed in the Declaration of Philadelphia of 1944. Development is to serve the human person and not to use the latter as a tool for which benefits of development would eventually derive. Conversely, human development and the improvement of individuals' and peoples' capacities acquire a new and increasing importance in relation to additions in capital. For the ILO, the parameters for development should therefore include in the first place those set by standards established in international labour Conventions and Recommendations and representing guide-lines and objectives for action in the various fields of the Organisation's competence.

Reference to international standards would also be of direct relevance to the other issue under consideration: that of the implementation of the right to development as a human right.

The question is understood to be addressed not in philosophical or moral terms but in concrete legal terms, that is to say as a matter of positive law. What would the right to development as a human right involve in terms of legal obligations; to whom and by whom would these be due; what would be the enforceability of such obligations, or at least, the means available for ensuring and promoting compliance?

The Declaration refers in a preambular paragraph to relevant instruments of the United Nations and its specialised agencies. In the view of the ILO, international standards that set binding obligations in various fields of development, including more particularly those referred to in article 8 of the Declaration (equality of opportunity, education, health services, food, housing, employment and fair distribution of income, the role of women, the eradication of social injustices), would have a key role to play in helping to define not only the policies and objectives of development but also to determine in terms of positive law the legal contents of the right to development as a human right.

Reference to international standards would afford the further advantage of making available the mechanisms for evaluating and stimulating progress that are embodied in the reporting and supervision systems presently in operation in respect of the relevant international instruments. It would help at the same time to avoid duplication of efforts and additional burdening of the national and international machinery concerned.

In monitoring progress in the realisation of the right to development as a human right, suitable arrangements should accordingly be considered first within the framework of mechanisms currently applied in respect of the relevant international standards. To complement the information that could be made available from these sources, recourse might also be had, if necessary, to other indicators and evaluating procedures devised and utilised by the ILO and other organisations in such matters as children's welfare and protection, education, health, employment and poverty, conditions of work and life, participation of women, etc.

Having regard to the extent and range of issues to be covered, such arrangements should no doubt aim at determining the choice of standards that are most directly relevant, but also at setting an appropriate timetable and programme for the communication and examination of information relating to the issues under consideration, respectively by the governments, organisations and other bodies concerned.