An Interdisciplinary Approach to Development and Human Rights

Jose Zalaquett

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AN INTERDISCIPLINARY APPROACH TO DEVELOPMENT AND HUMAN RIGHTS*

by

Jose Zalaquett**

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INTRODUCTION

As we enter the Third United Nations Development Decade, a sense of frustration and impatience can be detected in international debates and among concerned scholars. Measured by somewhat discredited yardsticks, such as mere growth, progress towards development may have occurred in many countries, but the goal of achieving a better life for all seems as elusive as ever. The eradication of hunger is as grave and pressing a problem as it was when the first efforts to promote international development began. Worldwide unemployment grows more threatening and large segments of the population continue to be denied meaningful participation in decisions affecting their lives.

Mindful of the multitude of variables which must be considered in solving such problems, researchers have progressively stressed the need for interdisciplinary approaches, causal analysis, and more comprehensive development conceptions. Such insistence is understandable in view

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1 The First United Nations Development Decade began in 1961. The Resolution stated that the General Assembly, "[d]esignates the current decade as the United Nations Development Decade, in which Member States mobilize to sustain support for the measures required on the part of both developed and developing countries to accelerate progress towards self-sustaining growth of the economy of the individual nations and their social advancement so as to attain in each under-developed country a substantial increase in the rate of growth, with each country setting its own target, taking as the objective a minimum annual rate of growth of aggregate national income of five percent at the end of the Decade...." G.A. Res. 1710, 16 U.N. GAOR Supp. (No. 17) at 17-18, U.N. Doc. A/5056 (1961).

of apparent failure of partial approaches to the problems of development. As a result, proposals about development, often based on radically new conceptions, have proliferated in recent years. Concepts and terminology in the area may have widely different meanings depending on the author or forum. Borderlines dividing disciplines and issues, science and ethics, have blurred. Whether these events will lead to more perceptive insights and sharper analysis or, on the contrary, reflect an identity crisis in development studies, remains to be seen. What appears clear is the need to follow the debate closely and to attempt to clarify concepts and interrelationships while identifying those areas most in need of research and reflection.

In the last two decades, the world has witnessed the emergence of human rights as a rallying point for international activists. The strength of this movement rests on

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2"Rights" is a term used by various disciplines and subject to differing interpretations. Ethics, theology, philosophy, jurisprudence, political science, and sociology offer different explanations of the foundation of rights. In legal theory, or more accurately, in positive law theories, rights are grounded in the law. They always correlate with obligations. This point is deliberately ignored in many debates and understandably so, since the emphasis on duties or obligations is often used to conceal an ambiguous attitude with respect to human rights.

When a right is established in a law without an explicit or clearly implicit ensuing obligation, the right is unenforceable. One often has to look at the other norms in a legal system to find elements that enforce a right established in a given norm or provision. For example, a norm may establish the right to privacy in one's home. Other norms in that legal system may contemplate the violation of such a right and punish burglaries, trespasses or an illegal search by the authorities. If such related norms do not exist, the respective right remains unenforceable. An unenforceable right may be called a moral or programatic right.

The enforceability of a right on the normative level does not guarantee that it will be respected in practice or that there will be any the redress in case it is violated. Weak or corrupt machinery or prohibi-
normative foundations: the universal legitimacy of, and respect for, or at least inevitable lip service to, certain internationally accepted human rights norms\(^3\) or values. The appeal and credibility of the main human rights organi-

(footnote 2 continued)

tively expensive legal expertise may render certain enforceable rights illusory for the poorer sectors of society.

The foregoing definition of rights is true of many national legal systems. In international law the notion of rights becomes far more complex, for there is no clear equivalent to the State monopoly of force such as that found in domestic law. Of course, force and sanctions are applied in the international arena. Yet, despite the important supranational machinery that has been established, its powers are more symbolic; nothing approaching a national judiciary or law-enforcement system exists in international law. There are enforceable norms on the international level, but as many, if not more, merely moral norms exist. The sanctions or consequences are more of a moral, political, or economic nature and their actual application depends on a number of different factors.

\(^3\)Norms may be defined as hypotheses of conduct to which a certain consequence is attached. For example, in the hypothesis, "if one does not pay a debt," the resulting consequence may be, "his goods may be attached and sold to pay the debt." Since the norm is hypothetical, a specific situation is ruled out. The norm applies to those persons and situations generally fitting the hypothesis and is valid until abrogated. These characteristics are shared by ethical norms and norms of lesser rank such as social conventions. A legal norm differs from an ethical norm, as it is established by the governmental authority through the appropriate procedures. The legal norm also has different remedies and sanctions which are backed up by public force. Ethical or social rewards or reprobations are different in nature and are not enforceable in the sense that a law is.

Although in many respects the content of legal and ethical norms in a given country will coincide, some legal norms are indifferent to ethics and vice versa. Legal and ethical norms may actually oppose each other.

A law is intended to protect some good or value. Except for statements in some preambles to statutes, such values are seldom explicit in the law. Their nature and the importance the law places on them must be discovered by examining the respective norm and, often, many other related norms. In legal theory these values are called juridical goods or legal goods. In the norm, "he who kills another person will be convicted and sentenced to twenty years in prison," the hypothesis, "he who kills another," is clear, as is the consequence, "twenty years in prison." However, the underlying juridical good, in this case human life, must be inferred. As with most norms, when applying the above example to a specific case fitting the hypothesis, it must be considered in relation to other norms such as those determining criminal responsibility and mitigating or aggravating circumstances.
zations may be found in the relatively narrow focus of their interests which leaves more complex matters to political and ideological controversy. Their appeal can also be explained by the immediacy and directness of their activities which promise concrete action, not abstract considerations.

Development and human rights differ in many respects, but both relate to those questions of survival and justice which have shown the most potential for conceptual expansion. It is no surprise that attempts to endow development proposals with normative strength tend to converge with efforts to enlarge the scope of human rights. Linking human rights with development may open the possibility for theoretical enrichment in both fields, as well as for increased effectiveness in practice. This article will argue that such linking must proceed step-by-step on solid intellectual foundations, to avoid both the danger of vague generalizations and the tendency to remain confined within either field, merely borrowing terms from the other.

Part I will discuss the evolution of human rights, development, and related international issues. Parts II and III will examine the different definitions given to human rights and development and Part IV will explore the mutual relationships between the two disciplines. Part V will cover specific issues such as the rights to food, to political participation, to cultural identity, and to labor rights. Part VI will conclude with suggestions for future research programs on the general relationship between development and human rights.
I. THE EVOLUTION OF HUMAN RIGHTS, DEVELOPMENT, AND RELATED INTERNATIONAL ISSUES

After the Second World War, the independent nations, under the strong leadership of the major powers, took prompt steps to reshape the world order. The marked bipolarity of the postwar period eventually gave way to various degrees of political, ideological, and economic diversification and fragmentation. But the strategic superiority of the superpowers, the international military alignments centered around them, and the basic layout of the international forums and economic institutions set up after World War II remain.

The Second World War dramatically underscored the growth of global interrelationships. The establishment of the United Nations as an important element of the postwar world order symbolized the recognition of global interdependence. The idealistic hope of the time, expressed in such fundamental documents as the United Nations Charter⁴ and the Universal Declaration of Human Rights⁵ [the "Declaration"], was for a lasting peace based on respect for the rights of all members of the human family through international cooperation. Whether sincere or not, these declared aspirations lost momentum as the Cold War period unfolded. The United Nations, incapable of becoming more than what its member

⁴ U.N. Charter preamble.
States allowed it to be, did not live up to the dreams of those who had hoped it would be a kind of global peacekeeper and the center of a system of important international cooperation. Yet, easy cynicism aside, the role of the United Nations in the study and approval of important international covenants and resolutions, and the implementation of some programs addressing certain vital concerns ought not to be underestimated.

Although global interdependence was recognized by various political elites in the late Forties, the world's attention began to focus on the claims and rising expectations of the Third World only in the early Sixties. By that time, "[a] tumultuous process of decolonization unfolded in the African continent. This was paralleled by popular organizations and revolt seeking major political and economic changes in many countries of Latin America. Similar processes occurred elsewhere in the Third World." 6

In growing numbers, ordinary citizens attempted to influence the domestic policies of other countries and questioned the foreign policies of their own nations. To a large extent these efforts gained a momentum and strength of their own. In some areas, particularly human rights, activists focused on the covenants, standards, and implementation machinery already in place in the United Nations. This growing international activitism not only injected new life

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into the United Nations' treatment of human rights, but also generated interest in a number of topics related to questions of survival, security, welfare, and the dignity of individuals, minority groups, and nations.

Some of these important issues are development, human rights, peace and disarmament, and protection of the environment. For the most part, these terms reflect contemporary, more comprehensive formulations of age-old concerns. What is new is the worldwide attention they are receiving, thus becoming the focus of resolutions, conferences, and activism by new organizations. Interest in these four topics has generated international networks of scholars, U.N. agencies, other intergovernmental organizations, or volunteer activist groups.

Unlike the others, development from its inception has been a subject of international interest. Although related to old problems of extreme poverty and welfare assistance, the subject is not just an expansion of old concerns, but a new creature, born in the Fifties. Development has probably generated the largest number of intergovernmental institutions and programs. It has also led to the creation of new disciplines and professions to an unparalleled extent. Yet, activism in the field has remained ineffective if not negligible. Development is most often mentioned in studies, intergovernmental debates, and governmental projects. Among donor agencies, development is generally used to refer to a framework or platform. For the most part, international
activitism on development issues is not undertaken under the terminology of development but rather adopts the language of political change and support for other people's struggles.

Human rights research has traditionally been connected with the law, political science, ethics, and theology. In the last decade, however, scholarship has lagged behind the challenges created by human rights activists. Among these four issues, human rights stands out as an essentially normative one. As such, human rights overlaps with the other issues since it covers the whole range of topics outlined above. The intellectual work in the field deals with the formulation and interpretation of norms as well as with the techniques of law-giving. The activism consists of enforcing these norms, disseminating their content, and denouncing violations as well as in caring for individual victims.

Although other fields contain many normative elements, the attendant scholarship attempts to understand a given situation, its causes, and relationships. Activists in the other fields propose policies and political measures and work for the implementation of programs or for structural changes. These distinctions are not purely conceptual. Because of the relative autonomy of the respective networks and institutions, they are also detectable in practice. Although covered by some U.N. programs, the issues of peace, disarmament, and the environment have drawn most of their energy from research and the activism of citizens' groups.
Development is the most elastic of all the topics mentioned and can be defined to embrace them all. As discussed more fully in Part II, recent development conceptions integrate the fulfillment of human rights, the attainment of peace, and the protection of the environment. Nevertheless, expressions such as the right to development, the right to peace, and the right to a clean environment lead one to question whether development and human rights may well devour themselves like two lizards, each swallowing the other by the tail. By using due care in distinguishing between normative and non-normative fields, such a danger can be avoided, but there is indeed a great risk of confusing terms and concepts.

II. DIFFERING DEFINITIONS OF DEVELOPMENT

Reviewing recent trends in development studies produced by intergovernmental organizations, think tanks, donor

7 See infra note 32.


9 Center of Concern, A Comparative Survey of Significant Proposals for a New World Order (paper prepared for the Symposium of the Interreligious Peace Colloquim, held in Lisbon, Portugal, Nov. 7-11, 1977).
agencies, researchers, and military writers, the layman is left with a sense of bewilderment. General development conceptions, though, seem particularly volatile and short-lived. Not only may a term be used in both a broad and restrictive sense, but a term once used to describe a precondition of development may later be used to refer to the process of development.

Development has variously been defined as: (1) economic growth, (2) self-reliance, (3) the satisfaction of basic needs, and (4) the fulfillment of all human rights. These terms have been used to mean development goals, the nature of development per se, or both.

The original, narrow concept of development as economic growth was not due solely to naivete. This definition arose because of the limitations inherent in systems such as the United Nations. Such constraints were greater in the

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10 For recent examples of documents from donor agencies see the papers presented to the Seminar on Human Rights and Development Cooperation, held in The Netherlands, December 8-12, 1980. See also J. O'Brien, Human Rights and Development Assistance (consulted in mimeograph form from the Inter-American Foundation) (1981).


12 See G. da Couto e Silva, Geopolitica do Brasil (1967); J. Gurgel, Seguranca e Democracia (1975). But see Comblin, La Doctrina de la Seguridad Nacional, in Dos Ensayos sobre Seguridad Nacional (Vicaria de la Solidaridad ed. 1977); Herrera & Garreton, America Latina a la Hora de la Doctrina de la Seguridad Nacional, in Las Fuerzas Armadas en la Sociedad Civil 143 (Perez ed. 1978). See also H. Vega, Desarrollo y Seguridad Nacional (unpublished manuscript) (because of the political climate in Chile, this article originally circulated in unsigned form among Chilean intellectuals).
Forties and Fifties when a few powerful actors dominated international institutions. Under those circumstances, one can understand why the topic of development was treated so narrowly. Today, development embraces questions of subsistence, dignity, and justice, a broad definition which would not have been possible earlier, given the state of the debate and the strength of certain ideological positions and interests.\(^\text{13}\)

Proposing economic growth as the only goal of development avoided more explicit discussion of other concrete and more realistic objectives. Devising concrete objectives is an essential element of policy-making, planning, and program implementation. While it soon became apparent that growth was taking place in less-developed countries, it was not trickling down to those most in need. It is not surprising that development conceptions were criticized for avoiding the issue of social change. Development thus became the

\(^\text{13}\)In recent years the concept of the New International Economic Order ["NIEO"] has been added to the definition of development, although some consider NIEO to be a precondition of development. In some international debates, NIEO has been reduced to a specific set of international economic issues. But in research center proposals, NIEO is defined more broadly. These proposals recommend a complete strategy of development, using the terminology of NIEO by referring to the changes which must occur at the national level in order to achieve NIEO worldwide. The NAVF report defines NIEO as "a set of demands that aim to ensure developing countries better possibilities for economic growth of the same type as that in the industrialized countries. These demands concentrate on easier access to the markets in industrialized countries, and on higher - more just - prices for raw materials and goods from the developing countries. Further items include safety mechanisms to guard against large, destructive fluctuations in raw material prices on the world market, as well as an end to the financial stranglehold which enormous debt burdens have placed on many developing countries - a bloodletting that drains already poor nations of what they have of currency and profits." NAVF, supra note 11, at 31.
target of ideological controversies.

The second definition of development, self-reliance, has been used to describe a variety of ideas, from strict isolationism to a sustained development that relies as little as possible on other countries. A self-reliance strategy, unlike plans for international cooperation, calls for withdrawal and isolation from any external relationships that might create dependency. The term in this sense has referred more to a means to development rather than a definition of it. The term also has the potential to be misused in political rhetoric.

A third definition of development, the satisfaction of "basic needs," is generally understood to include at least the freedom from extreme want, especially hunger. But a precise definition of "basic needs" is impossible because different entities have chosen to use the term simply as they understand it or as a means of achieving their own purposes. In the most wide-reaching interpretations, basic needs has included all human rights. In United Nations organizations, the concept was the focus of intense debate.

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14 Navf, supra note 11, at 34. "The fundamental idea behind self-reliance is to delimit, but not eliminate, outside relations. Delimitation applies mainly to those relations that appear to hamper development.... Self-reliance has also a cultural aspect: to maintain and strengthen one's own cultural institutions and special characteristics and to support cultural self-assertion." Id.

15 'There has been great disagreement as to how "basic needs" are to be defined. This disagreement has centered around the relationship between material and non-material basic needs and how important the various needs are in relation to each other. For instance, is food more important than political participation? Is political participation a precondition for ensuring enough food for all - thereby becoming 'more important'?" Id. at 41.
International lending institutions use the term as a criterion, albeit imprecise, to determine project feasibility. Although statements issued by such institutions suggest that they are in touch with the political rhetoric that now surrounds the term "basic needs," the term as it is used in this context seems very similar to the now disfavored economic growth definition of development. In United Nations forums, basic needs has been understood either as a development strategy or as a comprehensive definition of what is "good development." Other bodies within the U.N. system have claimed that the basic needs approach is a pretext to avoid considering New International Economic Order ["NIEO"] proposals. The normative disciplines have used the term in a number of different ways, from a rather minimalist understanding to an all-encompassing definition, including all the elements from the different perspectives. Defining development as the realization of all human rights is a relatively new idea, although elements of this notion have figured in the most comprehensive proposals for a basic needs strategy.

16 See infra pp.28-31.
18 For a discussion of the meaning of basic needs and the economic growth definition of development see generally Human Rights and Basic Needs in the Americas (M. Crahan ed. 1982) [hereinafter cited as Crahan].
19 See Alston, supra note 17.
20 See supra note 13.
21 See infra pp.28-31.
Comments from United Nations officials are helpful in tracing the evolution of development definitions in international circles. In 1961, the U.N. General Assembly proclaimed the First United Nations Development Decade, aiming to "accelerate progress towards self-sustaining growth of the economy of the individual nations and their social advancement so as to attain in each underdeveloped country a substantial increase in the rate of growth." Development and economic growth were generally considered to be synonymous.

In 1970, the Second United Nations Development Decade reflected a shift in priorities and a change in the definition of development. "The ultimate objective of development must be to bring about sustained improvement in the well-being of the individual and bestow benefits on all. If undue privileges, extremes of wealth, and social injustices persist, then development fails in its essential purpose." Mere economic growth was no longer regarded as sufficient for development. By 1970, the definition took into account notions of participation, self-reliance, and NIEO as well as ideological concerns.

In 1978, the United Nations Director-General for Development and International Economic Cooperation stated that:

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22See supra note 1.

23Secretary-General's Report, supra note 8, at 6.

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

The Economic Commission for Latin America ["ECLA"] defines development similarly: "The fundamental objective of development is to secure the collective and simultaneous enjoyment by all men of all civil and political, economic, social, and cultural rights."26

The current position of the U.N. leadership is that both people's material and non-material basic needs should be met; that all people are entitled to respect, to participate in decisions affecting their lives, and to be treated equally.27 Of course, there is no general agreement on how to achieve these goals of development.

In sum, development as it is now understood in international forums should:

1) be more than just an economic process or a set of economic policies;

2) include the satisfaction of material and non-material needs in the development process;


27Secretary-General's Report, supra note 8, at 13.
3) emphasize the role of the individual as a beneficiary and as an actor;
4) stress the rights of nations; and
5) consider ultimate development objectives within a human rights framework.

III. THE RELATIONSHIP BETWEEN NORMS AND HUMAN RIGHTS

A. Human Rights

The most important normative system for international human rights is the so-called International Bill of Human Rights: the Universal Declaration of Human Rights,\(^{28}\) the International Covenant on Civil and Political Rights\(^{29}\) [the "Civil and Political Covenant"], its Optional Protocol,\(^{30}\) and the International Covenant on Economic, Social and Cultural Rights\(^{31}\) [the "Economic, Social and Cultural Covenant"]. The various rights established in these instruments were already recognized in many national legal systems following long historical processes and political struggles.

Human rights may be categorized according to different criteria. One broad division places civil and political

\(^{28}\) Declaration, supra note 5.


rights in one category and economic, social, and cultural rights in another. This distinction is reinforced by the fact that two separate U.N. Covenants bear the names of the respective sets of rights. Civil and political rights have been called the "first generation" of human rights. Economic, social, and cultural rights have been considered "second generation." These terms are used because civil and political rights gained doctrinal and legislative acceptance in national systems before the other types of rights. The recognition of labor rights, together with other economic, social, and cultural rights, gradually occurred in the last decades of the nineteenth century and in the first decades of the present century as the result of arduous social and political struggles and the evolution of the welfare state.

In recent years there has been much discussion about "third generation," "emerging," or "solidarity" rights. Such rights have yet to be formally recognized in any international convenants. There is as yet no consensus on what rights are encompassed in the "third generation," but such rights are agreed to be collective in nature, and, as they are generally understood, are not exercised by the individual as is, for example, freedom of speech. Some scholars have argued that these "third generation" rights should be included in the international normative system;

32 A comprehensive list of "third generation" rights cannot be drawn up, as each writer in the area has developed a different "shopping list." However, the "right" to development, the "right" to peace, and the "right" to cultural identity are often included among "third generation" rights.
others contend that such rights may already be recognized in international law, if the relevant norms are interpreted appropriately. Nevertheless, formulae about "third generation" rights do not really constitute international norms. They may be considered as specific proposals for future norms, or, as appears more likely, as the advancement of values that various writers would like to incorporate into the law by endowing them with the appropriate normative character.

Human rights may be grouped in the following categories according to the juridical good or value involved:

1) inviolabilities: personal integrity, protection of privacy, and security;

2) freedoms: includes a whole range of freedoms allowing for participation in the life of a society and encompassing even the freedom to leave that society;

3) equalities: equal enjoyment of rights and equal protection under the law without regard to race, color, sex, ethnic origin, or other status;

4) political freedoms: rights to citizenship, to participate in the political process, to a political model that ensures the supremacy of the will of the people;

5) economic, social, and cultural rights: adequate standards of life and welfare which ensure a decent life with respect for the dignity of the person; and

6) the very condition of self: prohibitions against slavery and servitude.

Some of these rights presuppose a correlative obligation which is negative in character. It consists of not

33 See Alston, supra note 17; Alston, Development and the Rule of Law (1981).
doing an act which would intrude, dispossess, interfere with, discriminate against, or enslave another. Other rights, of an economic, social, or cultural nature, involve a positive obligation. In certain situations there is a combination of obligations, both positive and negative. Examples include those forms of discrimination which require both the cessation of discriminatory practices as well as the imposition of positive measures to overcome the current state of affairs.

Who is burdened with a negative obligation seems rather clear: everyone. This is valid on a theoretical level and, in practice, within national jurisdictions. When it comes to international law, the signatories to human rights instruments must be singled out as primarily responsible. A more difficult question is who bears the burden of a positive obligation in those cases in which the obligor has not been explicitly determined by the law.

B. The extent to which human rights are enforceable

From the foregoing discussion, one can conclude that the following elements determine the degree to which human rights may be legally enforceable on the international level. On a purely normative level, it is important that the respective right be clearly established. The hypothesis of the norm in question, considered either in isolation or in relation to other norms, must describe a situation or behavior clearly. It must also establish the subject of the right and the subject and content of the obligation. The
consequence or sanction must be commensurate with the juridical good protected by the norm.

References to the protected juridical good are important when clarifying the law and when emphasizing the solemn character of its mandate. But without an accompanying correct normative formula, such statements are reduced to either moral rights or mere rhetoric.

Beyond the purely normative level, the international and regional machinery for the enforcement of human rights is very uneven; much depends on the respective region and the types of rights in question. The following table\(^{34}\) combines many of these classifications and examines the degree of correlation between the normative characteristics of various sets of rights and certain trends encountered in practice.

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\(^{34}\) Zalaquett, supra note 6, at 19.
<table>
<thead>
<tr>
<th>Rights or norms</th>
<th>How norms are established in international instruments</th>
<th>The degree or association in practice with the term &quot;human rights&quot;</th>
<th>Position of government accused of violating human rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prohibition of slavery and torture, freedom of thought and religion. The right of every accused to a fair trial.</td>
<td>As absolute rights: fully and presently demandable. Never to be suspended or restricted. They involve mainly a negative obligation.</td>
<td>High, at least in Europe and the Americans.</td>
<td>Denial of the acts.</td>
</tr>
<tr>
<td>2. Right to life, liberty, and citizenship.</td>
<td>These rights may not be restricted &quot;arbitrarily.&quot; They are presently demandable. They involve mainly a negative obligation.</td>
<td>High, at least in Europe and the Americas.</td>
<td>Denial of the acts or statements that the rights have not been affected &quot;arbitrarily.&quot;</td>
</tr>
<tr>
<td>3. Right to privacy, the inviolability of family life, and correspondence. Freedom of movement, domicile, and immigration. Freedom of opinion, religion, and expression. Freedom of assembly and association. The right to own property.</td>
<td>As rights presently demandable, but subordinated to higher values, such as morality, public order, and national security. They involve mainly a negative obligation. They may also be suspended or restricted in case of emergency. Furthermore, the very content of these rights varies in different cultures and political systems.</td>
<td>Infrequently, with the possible exception of the United States, Western Europe, and Israel in relation to the right to emigrate.</td>
<td>Rather than deny the acts, the government emphasizes that a state of emergency exists or that national security, morals, or public order are being safeguarded.</td>
</tr>
<tr>
<td>4. Political rights. The right to participate directly or indirectly in government. The will of the people as the basis of governmental authority.</td>
<td>As very general parameters for a political model or for the participation of citizens in the political process. They may involve a positive obligation and may not be presently demandable.</td>
<td>Rarely.</td>
<td>The political regime in question states that it actually represents popular will or is a necessary transition towards a system that would represent it.</td>
</tr>
<tr>
<td>5. The right to employment and fair working conditions. The right to a standard of living that ensures health and well-being. The right to social security. Special rights of mothers and children. The right to education. The right to participate in the cultural life of the community.</td>
<td>As needs or aspirations that should be progressively met through international cooperation and internal effort. They involve a positive obligation.</td>
<td>Increasingly, in various Third World countries.</td>
<td>The government asserts that its policies are headed toward the progressive satisfaction of these rights.</td>
</tr>
</tbody>
</table>
IV. RELATING DEVELOPMENT AND HUMAN RIGHTS

A. The state of the question

Human rights activists have tried to relate their concerns to development questions. These efforts have adopted various forms and are the result of differing motivations. Among Third World activists, there has been a tendency to consider the eradication of extreme poverty as a right with the same status as political and civil freedom.\(^{35}\) Scholars from normative disciplines and human rights bodies in the U.N. system have sought to relate the concept of rights to development\(^{36}\) or to examine the concept of basic needs from a human rights perspective.

A common factor in these efforts is the emphasis placed on the equality of social, economic, and cultural rights with civil and political rights. In some cases, such emphasis stems from the need to develop a legal theory of social and economic rights.\(^{37}\) In other cases, one detects the

\(^{35}\)See supra p.23.

\(^{36}\)The International Commission of Jurists has sponsored a series of regional seminars in which the Commission's general concerns about the rule of law have been included within the larger framework of development questions. Following seminars organized in Barbados in 1977, in Senegal in 1978, in Colombia in 1979, and in The Hague in 1981, the Commission has published several works containing the contributions to these conferences. See generally International Commission of Jurists, Human Rights and Development: Report of a Seminar on Human Rights and Their Promotion in the Caribbean (1978); International Commission of Jurists, Colloque de Dakar sur le Developpement et les Droits de l'Hommes, Revue Senegalaise de Droit (1978). See also Alston, Development and the Rule of Law (1981).

\(^{37}\)But more often than not, such theories begin by stating that all rights stand legally on an equal footing, instead of accepting that work must still be done to reflect in legal terms an equal standing which may exist from an ethical viewpoint.
suspicion that the focus on civil and political rights which prevails among international human rights activists is a reflection of Western values. As a consequence, developing countries try to redress the perceived imbalance by stressing the importance of social, economic, and cultural rights, the rights of nations, and the need to respect cultural identity.

Human rights activists make approaches to developmental questions which rarely delve into substantive development issues. They usually discuss development questions within the normative boundaries of human rights. The discussions center around the right to development or the need to emphasize the importance of social and economic rights.38

On the side of developmentalists, the approach to human rights has become more intense. In reviewing the evolution of different development concepts, it is clear that human rights proposals have progressively entered debates on development.39 Scholars and intergovernmental institutions are most active in introducing these proposals into development debates. Several donor agencies working in the field of international development aid have also sought to clarify the relationship between such programs and human rights.40

As is common with human rights specialists, developmentalists have tended to remain within their own disciplinary

38 See supra p.11.
40 See supra note 10.
field, stressing the relationship with the human rights system by using human rights language instead of integrating normative categories in their own analysis. Nevertheless, some recent interdisciplinary endeavors have begun the task of bridging both fields more effectively.  

The most far-reaching linking of development and human rights views development as the progressive satisfaction of all human rights. In the language of ECLA, human rights may be understood as the fundamental objective of development.  

By linking the two in such a comprehensive way, one can, from a human rights perspective, understand development as the realization of all human rights, and from a developmental perspective, conceive of human rights as standards to be achieved through the development process.  

The apparent advantages of linking development to the human rights system is that the latter is a relatively well-defined, comprehensive system which addresses a whole range of questions pertaining to survival, welfare, freedom, and human dignity. Moreover, the concept "human rights" enjoys considerable moral strength. Such a linking is, however, only the beginning of the problem: further definitions need to be made to avoid various pitfalls.  

Among the needed definitions are: (1) the articulation of more concrete strategies of development and their relationship to human rights; (2) the identification of those

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41 See generally Crahan, supra note 18; NAVF, supra note 11.
42 ECLA, supra note 26, at 1.
key factors which hinder the satisfaction of certain rights; (3) the question of how the satisfaction or violation of critical needs and rights (particularly those instrumental in attaining others) relate to each other in practice, and (4) the development of analytical tools to assess progress. Some, if not all of these challenges, are formidable indeed.

The most serious danger is the overuse of human rights language and the consequent cheapening of the issue. Normative formulae are the result of long processes of debate and struggle. To emphasize the importance of a given value will not transform it into an enforceable right. This is not to say that those values embodied in enforceable normative formulae are less important than other values. The value "good nutrition" could be more important than "freedom from torture" but the right to food is less enforceable a norm than the prohibition of torture. Normative formulae concerning the right to food must be reworked and agreed upon rather than insisting that, as a right, it stands on an equal footing with the prohibition of torture.

The relationships between human rights and development networks are still rather weak. The scientific disciplines contributing the most to each field have not quite developed an interdisciplinary tradition between them. Action on human rights and development has taken different forms yet interrelationships are being gradually established.

43 Such a goal would be monumental in scope and assumes political consensus has been reached in an area of intense ideological disagreement.
B. Basic needs: an example of a concept common to development and rights theories

Freedom from extreme want, particularly hunger, is perhaps the most recurring element of basic needs found in contemporary developmental and ethical literature. It is therefore useful to make some observations about basic needs from a normative point of view. One must refer to the important normative traditions influencing ethical thought in Western countries: Christian ethics, Marxist theory, and the liberal tradition. None of them focuses solely on human rights, nor do they discuss basic needs, a fairly new concept. These traditions constitute instead a comprehensive vision of human existence, society, and history which is rooted in philosophical, economic, or religious beliefs.

One cannot judge the value of the human rights concepts in these traditions because of their treatment of basic needs. For the Marxist tradition, the question of basic needs is central, although not stated as such. All true rights in Marx's view are based on claims to social and economic equality and only secondarily on claims to political equality.

It is highly questionable whether one can speak of a single Christian tradition since no discussion could possibly be applicable to all Christian denominations. There are, however, certain aspects of Christianity which have been increasingly emphasized in the last two decades. The most important of these is the "preferential option," a preference for serving the needs of the poor rather than
emphasizing liberty and accepting the existence of continued poverty in society.

A number of recent studies have discussed the reluctance of the liberal tradition to embrace economic, social, and cultural rights or, by derivation, the normative supremacy of basic needs in a theory of justice. Classical liberal theorists depart from the natural law writers who stress positive duties towards others. For classical liberals, the only foundation for rights is liberty and only negative obligations may be imposed on others. Liberal theory does not rule out competition and it is compatible with the presence of extreme want in society. The implicit assumption is that the free interplay of economic forces leads to an overall harmony that operates for the benefit of all. Contemporary liberal thinkers make this point explicit by reasoning that the value of economic competition for society as a whole produces results which benefit not only the wealthy but the poor as well.

Rawls' *A Theory of Justice*\(^{44}\) has become the point of reference for those seeking to update the liberal tradition. Contrary to classical theorists who were indifferent to the questions of which goods people want, Rawls argues that there are some "social primary goods" that every rational man is presumed to want. According to one scholar, Christiansen, Rawls' normative standard for justifying inequalities in society is that all social primary goods -

liberty and opportunity, income and wealth, and the basis for self-respect - are to be distributed equally, unless an unequal distribution of any or all of these goods is to the advantage of the least favored. 45

Within Rawls' standard, however, economic and social needs are considered only after basic liberal rights have been secured. There can be no trade-off between the right to liberty, economic, or social rights, unless the trade-off is necessary to raise the level of satisfaction of basic needs so that individual liberty can be reasonably asserted as the central value. 46

The distinction between rights and needs is a recurring question in other studies. 47 While needs and rights are


46 In this last statement, authors such as Michelman and Dworkin see the basis for a reconciliation between Rawls' concepts and a basic needs approach, but Christiansen, Pennock, and others believe that there is a clear inadequacy in Rawls' theory regarding basic needs. Apart from these authors, others have tried to bring together elements of the liberal tradition and the basic needs concept, notably Langan and Shue. On the normative question of basic needs, Shue has considered the obligations that needs impose on others. Shue distinguishes among three types of duties: (1) the duty not to eliminate another's only means of subsistence, unless necessary to protect one's own basic rights; (2) duties to protect some people against deprivation by others of their only means of subsistence and (3) a duty to provide for the subsistence of those unable to provide for their own. See R. Dworkin, Taking Rights Seriously (1977); J.R. Pennock, Democratic Political Theory 16-58 (1979); H. Shue, Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy 53 (1980); Christiansen, supra note 45; Michelman, Constitutional Welfare Rights and A Theory of Justice, in Reading Rawls (N. Daniels ed. 1974).

47 Some non-normative studies are often directly opposed to the basic needs approach outlined in the text. Economic theorists and those

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usually kept separate conceptually, they are deemed to be intimately related. Christiansen has written:\textsuperscript{48}

To describe basic needs as human rights is to tell the listener that need is more than a norm among many. It declares that need is a principle with primacy over most other considerations, including associated principles of justice like merit and contribution to the common good. In contexts where need is already recognized as the first principle of justice, therefore, it will be redundant to speak of needs as rights but where its role is only grudgingly admitted, as it is in many quarters in the U.S., then the added force of rights language makes clear the priority of need over other claims.

It should be noted that Christiansen favors a restricted approach to the concept of basic needs itself.

V. AN ANALYSIS OF CERTAIN RIGHTS WHICH BEAR PARTICULAR RELEVANCE TO DEVELOPMENT

The need to consider the human rights system as a whole and to resist singling out certain rights as more important than others has been emphasized. Such emphasis is needed because these distinctions have often been used to downgrade some rights or to justify indirectly the violation of others. Some studies have emphasized the equal importance of all rights,\textsuperscript{50} but certain rights, such as the rights to

\begin{footnotes}
\item Note that Christiansen refers to the terms "rights" and "norms" from the normative perspective of ethics and not in a legal sense.  
\item D. Christiansen, Basic Needs: Criterion for the Legitimacy of Development 38 (April, 1979) (unpublished manuscript). For the published article, see Christiansen, supra note 45.  
\item NAVF, supra note 11.
\end{footnotes}
food, to work, and to political participation, are considered more relevant in bridging the gap between development and human rights.

Different types of rights have reached very different evolutionary stages. For example, labor rights have been the subject of much legal standard-setting in the international and domestic arenas. But the rights to employment, to food, and to cultural identity are established in very general terms in international human rights instruments. The right to participation can be construed as comprising many different elements, some of which have been more precisely defined in international law than others.

A. Some normative observations on the right to food in international instruments

The juridical good of norms underlying the right to food is the protection of one of the essentials of subsistence and self-realization (including optimum social and economic functioning). On an individual level this right consists of an adequate intake of good food. Malnutrition, excess consumption, an unbalanced diet, or the consumption of contaminated or unhealthy food are violations of the right. If one looks at the individual as a consumer and as a potential producer of food, one can point to a number of more general values related to the adequate intake of food. These values are generally thought of as rights other than strictly the right to food: freedom of speech, the right to consumer information, the right of association, either as consumer or producer, the right of access to land and other
resources, the right to work, or, in the alternative, the right to public assistance.

A summary review of existing legal norms reveals that in many national legal systems there are elements, for the most part fragmentary, which indirectly assert the right to food. Provisions establishing the "social role" of the right to property and establishing the possibility of land acquisition or expropriation for the purpose of agrarian reform are often established in a national constitution. The duties to refrain from depriving another of his or her livelihood and to protect another from deprivation are found in most countries with varying degrees of legal protection. Nevertheless, this is not necessarily true of less evident structural forms of deprivation, as opposed to blatant, direct acts. Finally, in many countries there are legal provisions establishing programs for the alleviation of hunger. But the extent and permanency of such programs as well as their dependence on budgetary allocations causes some programs to be less successful than others.

In the international human rights system, the right to food is mentioned in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights. In the Declaration, the direct reference to the right to food is quite general. Article 25 states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his
family, including food...."\textsuperscript{51}

Article 11 of the International Covenant on Economic, Social and Cultural Rights states:

1. The State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The State Parties will take appropriate steps \textit{[emphasis added]} to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

2. The State Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed:

   (a) To improve methods of production, conservation and distribution of food by making full use of technological and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems \textit{[emphasis added]} in such a way as to achieve the most efficient development and utilization of natural resources;

   (b) Taking into account the problems of both food importing and food-exporting countries \textit{[emphasis added]}, to ensure an equitable distribution of world food supplies in relation to need.\textsuperscript{52}

The obligations undertaken in the Declaration\textsuperscript{53} and in the Economic, Social and Cultural Covenant\textsuperscript{54} suggest that the States Parties have assumed a positive obligation to assure food for their peoples. But the language is sufficiently ambiguous to allow almost any interpretation. A

\textsuperscript{51} Declaration, supra note 5, art. 25, at 76.

\textsuperscript{52} Economic, Social and Cultural Covenant, supra note 31, art. 11, at 50.

\textsuperscript{53} Declaration, supra note 5, art. 25, at 76.

\textsuperscript{54} Economic, Social and Cultural Covenant, supra note 31, art. 11, at 50.
State Party could interpret the language "appropriate steps" in Article 11, paragraph 1, to mean that it will rely on market forces alone to achieve the desired results.

The language in paragraph 2 is so imprecise that some sentences are almost meaningless. "[D]eveloping or reforming agrarian systems" could be read as avoiding agrarian reform altogether. "[T]aking into account the problems of both food-importing and food-exporting countries" is typical of the generalities often found in international documents which allow States Parties to interpret their obligations as best suit them.

Article 11 may be an important step in devising international norms, but it fails to create an enforceable right to food. The fundamental problem in furthering the normative development of the right to food is the difficulty inherent in establishing clear, positive obligations in international instruments.

It is much easier to obtain consensus in those rare circumstances in which the right to food can be construed as a negative obligation, such as the prohibition of the aggressive marketing of infant formula. The banning of certain practices in trade, production, and advertising implies a relatively more simple mandate than when the

55 Id.
56 Id.
57 Id.
solution to a problem calls for the implementation of a positive obligation. The key to devising positive obligations in regard to the right to food is to identify first those issues on which experts and governments are most likely to agree. Such a consensus may initially be reached by framing positive duties as negative obligations.

Another step towards the establishment of positive duties is the creation of reporting mechanisms. Such reporting increases the accountability and responsibility of States and international lending institutions with respect to the right to food. However, reporting plays only a complementary role and, lacking agreement on substance, often becomes tailored to the views of the particular reporter.\(^5^9\)

By examining the gaps in international law regarding

\(^5^9\) A more useful approach studies concrete examples which seem to violate the right to food and, from that perspective, examines further the values implicit in those circumstances. One scholar seemed to suggest such an approach and the reader might consider under what circumstances the following would constitute a violation of the right to food:

Country A, a relatively affluent country, has no guaranteed food program in the public sector, or has a program which bars substantial numbers of needy persons from eligibility;

Country B, a developing country, pursues a development policy which results in increased starvation for the poorest twenty percent of the population due to inflation, unemployment, and the absence of special measures regarding food;

Country C, a substantial food producer and importer, will not divulge information on domestic food production, imposes unilateral export embargoes without international warning, or takes other secret independent steps which disrupt global planning, and

Transnational corporation A, with encouragement from home and host governments, uses scarce land, water, and investment credits to produce cash crops for export in a country where large numbers of the population are starving, or markets a non-nutritious food product to the poor with misleading advertising techniques. Notes from a private conversation with Ann Blyberg, Chairman, U.S. Section, Amnesty International, in Seattle, Washington.
the right to food and by using the described approaches the right to food can be enhanced and developed.

B. The right to work

The International Labour Organization (the "ILO"), now a specialized agency within the U.N. system, was originally established in 1919. The ILO has done a great deal of work in setting normative standards in the last fifty years. These standards are contained in two basic types of documents: Conventions, which create binding obligations, and Recommendations, which are intended as a guide to policy, legislation, and practice. Over three hundred Conventions and Recommendations have already been adopted. By June 1980, ILO Conventions had received over 4,800 ratifications from member States. The adoption of Conventions and Recommendations requires a two-thirds vote of the members at the International Labour Conference which is composed of national representatives of governments, employers, and workers.

In addition, the ILO has developed an elaborate system of supervision to facilitate implementation of its standards. States which have ratified ILO Conventions must report every year to the ILO Director-General on the steps taken to ensure implementation. Such reports are examined by the ILO Committee of Experts on the Application of Conventions and Recommendations and its conclusions are discussed yearly by a special tripartite committee composed of governments, employers, and workers. Such procedures
have proven effective in influencing changes in national legislation. In addition, complaints of non-compliance with the terms of a ratified Convention may be initiated in various ways against the respective member State and a Commission of Inquiry may be set up. Special ILO machinery also exists to deal with freedom of association complaints.

Because of the ILO standard-setting endeavors, the labor rights in the Declaration and in the two U.N. Covenants are by far the most elaborate. The ILO had already been in existence for thirty years when the Declaration was written in 1948. This explains in part why labor rights are defined in such detail in as concise a document as the Declaration.

Article 23:
1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and join trade unions for the protection of his interests.

Article 24:
Everyone has the rights to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 24 is unique because it demonstrates a level of specificity not found elsewhere in the Declaration. This is because Article 24 was based on ILO-approved Convention 52.61

60Declaration, supra note 5, arts. 23-24, at 75.
regarding the right to holiday with pay which was ratified
in 1936, twelve years before the creation of the Declara-
tion.

Article 23 is the compression of hundreds of pages of
previous ILO Conventions and Recommendations into a few
lines. As such, the principles expressed therein were
hardly new or revolutionary. Article 23 distinguishes among
various types of labor rights:

1) Individual freedoms: freedom to choose employ-
ment, prohibition of forced labor, and freedom of
association in the sense of being free to form and to
join trade unions. From a legal point of view, such
labor rights may be placed in the category of civil
and political rights. In fact, although labor rights
are mentioned in the Economic, Social and Cultural
Covenant in Articles 6, 7, and 8, Article 22 of the
Civil and Political Covenant regards labor rights as
freedoms and repeats parts of the text of the Economic,
Social and Cultural Covenant.

2) Economic and social protections for the employed
worker: in the contractual labor relationship mini-
mum standards regarding conditions of work and remun-
eration.

3) The rights not to be discriminated against
because of certain personal characteristics: age,
race, sex, ethnic origin, religious affiliation, etc.

4) Trade union rights: the distinction should be
made between the freedom to join a union and the
rights of a member who has already joined. The
member should have the same rights as the trade union
itself, including the rights to collective bargaining
and to strike. Trade union rights may be considered
a particular form of the right of association, the
right to assembly, or a combination of various rights
and freedoms. However, such categories do not do
justice to the richness and complexity of the legal
theory of union rights. The very purpose of trade
unions and union rights and freedoms is the achieve-
ment of many of the objectives listed under the
general set of economic, social, and cultural rights.
However, as with economic, social, and cultural
rights, the acceptance of trade union rights is very
much contingent on the economic, social, and cultural
conditions as well as the political climate of the
country.
5) The right to employment: actual availability depends upon social and economic factors. The Conventions and Recommendations which have been termed the "International Labour Code" are impressive as a comprehensive set of norms on most aspects of labor rights, but the right to employment itself is excluded.

The International Labour Code, which includes Convention No. 2 of 1919, 62 Convention No. 44 of 1934, 63 Convention No. 88 of 1948, 64 and Convention No. 122 of 1964, 65 addresses the question of unemployment. But the provisions of these Conventions are too general to provide effective legal protection against unemployment. In effect, by ratifying such Conventions, the States Parties commit themselves to a "major goal and active policy designed to promote full, productive, and freely chosen employment."66 Such a goal appears to be a positive obligation, but, as framed, is little more than an exhortation.

The most valuable set of ILO normative standards concentrates almost exclusively on the freedoms to form and to join unions, on banning discrimination, and, for the most part, on regulating already existing contractual labor relations. The international normative protections of the right to work per se are, as discussed above, meager.

63 Convention (No.44) Ensuring Benefits or Allowances to the Involuntarily Unemployed, adopted June 23, 1934, 40 U.N.T.S. 45 (amended 1946).
66 Id.
C. The right to participation

The concept of participation has entered the language of development studies, social sciences, and church groups in recent years. As with terms like basic needs and self-reliance, participation has been used in various contexts. Yet the idea of having a meaningful say in the events affecting one's life underlies most definitions of the term. More specific definitions such as "political participation," "participation in the cultural, associative life of the community," or "participation in the work-place" are often used. In the same vein, the Declaration states in Article 21:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of the government: this will shall be expressed in periodic and genuine elections which shall be by universal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 25 of the Civil and Political Covenant substantially mirrors this provision, although the explicit reference to the will of the people as the basis of governmental authority is deleted.

Political participation in the Declaration and the Civil and Political Covenant includes the freedom to participate in the political process as it functions at present; a

67Declaration, supra note 5, art. 21, at 75.

68Civil and Political Covenant, supra note 29, art. 25, at 55.
corollary of this freedom is the right to gain and to maintain citizenship. In this sense, political freedoms may be considered presently demandable rights. But the norms regarding political rights establish a political model which may not exist in many countries. The value protected by such norms may be "democracy" but only in the sense of ensuring free, periodic elections and the rights of all citizens to elect and to run for public office. Such a delineation is general enough to allow widely differing political systems to contend that they fulfill the implicit democratic value. Thus, inasmuch as it assumes a democratic system which may not exist in practice, the respective norm is not presently demandable.

One can argue that the civil liberties and union rights established in the Declaration and in both U.N. Covenants constitute an assertion of the right to participate at different levels in the affairs of the community, although the expressions "participation" and "to take part" are seldom used. In that sense, there are certainly grounds to assert that this is a legal foundation for the right to participation. It is to these grounds which Alston refers when he classifies civil and political rights according to their potential for creating structural change. To Alston, the right to rebel against tyranny (a right implicitly recognized in the preamble\(^{69}\) to the Declaration), is, of

\(^{69}\)The preamble to the Declaration states: "[w]hereas it is essential, if man is not to be compelled as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law...." Declaration, supra note 5, preamble, at 71.
course, most closely related to major structural change in a society. Such a right could hardly be exercised in any system. Its normative recognition may come retroactively, when and if the rebels succeed. The right to participation, if effectively ensured, has the strong potential for structurally changing a society. As Alston correctly points out, a dictatorship may eventually decrease or suspend its most blatant repressive practices, but for the dictatorship to grant an effective right to participation would be against its nature.70

D. The right to cultural identity

The right to a cultural identity has been identified as a "comprehensive right of importance for the realization of most other human rights."71 Under this definition, "cultural" is given a broad meaning. The term "right" is used to mean, from a normative point of view, what would be termed a "value." Cultural identity may indeed be a value of great importance, but it is not yet an enforceable norm.

The principal international human rights documents make few explicit references to culture. The Declaration does refer to the right to participate freely "in the cultural life of the community," but it is clear from the text that "culture" is used in a rather narrow sense.72 The most


71 NAVF, supra note 11, at 57.

72 The Declaration states that "[e]veryone has the right freely to
direct reference to culture can be found in Article 27 in the Civil and Political Covenant: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging [emphasis added] to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and to practice their own religion, or to use their own language."\textsuperscript{73}

Other relevant normative references are found in Article 11, of both U.N. Covenants,\textsuperscript{74} whereby all peoples are declared to have the right of self-determination. The beneficiaries of the declared right are a collective entity: peoples or minorities and "persons belonging" to such groups. Individual exercise of the right to cultural identity cannot really be distinguished from the exercise of civil liberties and other freedoms (the freedom to speak one's own language or the freedom to profess one's own religion). The right to cultural identity differ from the others because the included freedoms are exercised by

(footnote 72 continued)

participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits." Declaration, \textit{supra} note 5, art. 27, at 76.

\textsuperscript{73}\textit{Civil and Political Covenant, supra} note 29, art. 27, at 56.

\textsuperscript{74}The \textit{Civil and Political Covenant} and the \textit{Economic, Social and Cultural Covenant} state in identical language that, "[a]ll peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." \textit{Civil and Political Covenant, supra} note 29, art. 11, at 53; \textit{Economic, Social and Cultural Covenant, supra} note 31, art. 11, at 49.
minorities in larger societies. The cultural values of minorities are given much more protection under most domestic legal systems than under international law.

The difficulties implicit in the right to cultural identity suggest that the right to participation is a more easily attained goal of development. These considerations have led some scholars to recommend that the right to participation, rather than the right to a cultural identity, be used when identifying future research projects.

A more productive approach to the issue of human rights examines how the content of such rights in the international human rights documents is understood in different cultures or political systems. During negotiations, differences are often reconciled by agreeing to sufficiently general or vague wordings or to enough exceptions to allow for a wide range of interpretations to the adopted provisions. An example of this process is the difference in interpretation of the freedom of expression or of the right to own property in ideologically opposed States.

VI. SUGGESTIONS FOR FURTHER RESEARCH PROGRAMS

In conclusion, proposals for further research programs focusing on development and human rights will be made. These proposals aim to advance practical development research, to use human rights as a unifying framework which is morally acceptable and realistic, and to encourage interdisciplinary research which brings together researchers from the North and the South.
Additional research on human rights concepts implicit in development propositions and vice-versa, would be useful. If one aims to reinforce development issues by lending them the normative strength of the human rights framework, it is important to understand how both development and human rights relate to each other. Development concepts do contain a position on such normative questions as devising a hierarchy of rights, formulating trade-offs, and setting priorities. On the other hand, key human rights advocates also advance normative propositions which can only be met by fundamental changes in society.

Another area of research would discover the social costs of certain economic policies. These social costs are the trade-offs made in the name of development. Labor rights, social welfare, and other similar programs are temporarily sacrificed for the sake of economic development. The implicit promise is made that such sacrifices will be more than compensated for by the improvement in the economy which is to follow. Research projects in the area of social costs should concentrate on the effects on economic policies at micro-economic levels. The liberal approach, Marxist theories, and Christian ethics may give different answers to the question of which sacrifices are ethically permissible for the sake of development.

If changes within a society are a prerequisite of development, research on the preconditions for such change is essential as an intermediate step. Research projects in
this area should focus on specific topics. For example, adequate political participation may be a precondition of development. If the enforcement of trade union rights may be considered a precondition for meaningful political participation, the question then becomes, what are the necessary conditions which will ensure strong trade union rights? If the unions are relatively well-structured, the focus may be on those institutional changes which are needed to give unions the power to influence economic planning. Similar research projects could focus on the role of women or of various minority groups.

The most expansive definition of development is the realization of human rights for all peoples. For the definition to be more than an abstract concept, however, international institutions must reach agreement on the content of human rights and on criteria for measuring success in the struggle for the enforcement of particular rights. The wedding of development and human rights could endow development with norms and values and give concrete objectives to the human rights field. When agreement is reached on terminology and methodology, public and private international organizations will be able to concentrate on development and on the fulfillment of human rights for all nations.