

# UNITED NATIONS SPECIAL RAPPOREUR ON THE **RIGHT TO DEVELOPMENT**



Guidelines and Recommendations on the Practical Implementation of the Right to Development

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## PRELUDE

In this special edition report, the Special Rapporteur on the right to development, Mr. Saad Alfarargi, presents guidelines and recommendations on the practical implementation of the right to development. The report is based on regional consultations that the Special Rapporteur held on the subject in 2018 and 2019, and it includes four main sections: 1. meaningful participation in development processes; 2. mobilizing sustainable resources for development; 3. monitoring and evaluating development policies; and 4. accountability and access to justice when rights are infringed.<sup>1</sup>



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# 1

## Introduction



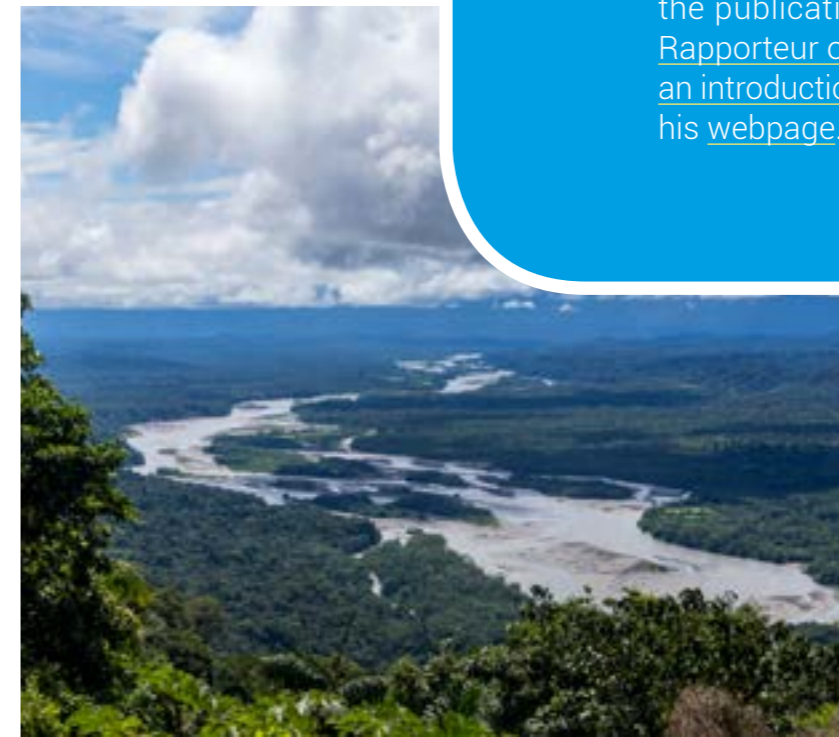
The Special Rapporteur on the right to development, Mr. Saad Alfaragi, was appointed by the United Nations Human Rights Council in March 2017. Special Rapporteurs are independent experts who are mandated by the Human Rights Council to examine and report on specific human rights issues. The right to development concerns the promotion and protection of an individual's ability to participate in, contribute to and enjoy development, whether it be economic, social, cultural or political development.

The Special Rapporteur on the right to development monitors and reports on issues affecting the right to development, and he advocates for its promotion worldwide. The Human Rights Council mandated the Special Rapporteur to contribute to the promotion, protection and fulfilment of the right to development in the context of internationally agreed upon frameworks that relate to development: the 2030 Agenda for Sustainable Development (September 2015), the Sendai Framework for Disaster Risk Reduction (June 2015), the Addis Ababa Action Agenda of the Third International Conference on Financing for Development (July 2015) and the Paris Agreement on climate change (December 2015).

In September 2017, the United Nations Human Rights Council adopted resolution 36/9, which mandated the Special Rapporteur to hold regional consultations on the implementation of the right to development.<sup>2</sup> The Special Rapporteur convened a series of regional consultations in 2018 and 2019. He sought to identify good practices in designing, implementing, monitoring and assessing policies and programmes that contribute to the realization of the right to development. The consultations brought together representatives of States from around the world and representatives of United Nations agencies, intergovernmental organizations, academia, civil society and the private sector. Extensive background information on [the regional consultation process](#) can be found on the Special Rapporteur's webpage, including suggested background readings, agendas from the expert meetings, participant submissions and outcome documents that summarized the main findings of each consultation.<sup>3</sup>

The consultations resulted in a set of practical guidelines and recommendations for anyone who may be involved in the implementation of the right to development. The Guidelines suggest methods for reacting to the structures, processes and outcomes of development policies. The Special Rapporteur encourages all stakeholders to use the report as a tool for designing, monitoring and assessing human rights-motivated development policies.

For more information on the Special Rapporteur's mandate and activities, see the publication [United Nations Special Rapporteur on the right to development: an introduction to the mandate](#),<sup>4</sup> and visit his [webpage](#).<sup>5</sup>



# 2

## General principles on the practical implementation of the right to development



The regional consultations have reaffirmed the notion that the implementation of the right to development involves adhering to international human rights principles, including principles related to non-discrimination and fundamental freedoms. The implementation of the right to development also involves adhering to internationally agreed upon frameworks on climate change, financing for development and sustainable development.<sup>6</sup>

Just as the [Declaration on the Right to Development](#) recognizes that “the human person” is the central subject of development, these guidelines emphasize that fulfilling the right to development must involve **empowering persons**, both individually and collectively, to decide their own development priorities and their preferred methods for reaching those priorities.<sup>7</sup>

With that foundational principle in mind, the present guidelines highlight the importance of participation. **Meaningful participation** serves as a basis for assessing what rights holders’ interests are, and for ensuring that those interests are met. Ensuring participation involves more than merely consulting individuals and communities—it implies meaningfully placing rights holders at the centre of decision-making that affects their own economic, social, cultural and political development.

The view that development is only an economic outcome is incomplete because it is possible for the development priorities of a population to remain unfulfilled, despite economic growth. Development should not be conceived of as a merely sequential process wherein economic growth is sought to finance social policies. Rather, it should be a holistic process that requires the input and involvement of **diverse stakeholders** in order to achieve sustainable results. Such stakeholders include States, international organizations, civil society, academia and the private sector. Good governance, a just and transparent rule of law and stable institutions that are transparent, responsive and accountable are also necessary preconditions for fulfilling the right to development.

The existence of peace or conflict is also relevant to the implementation of the right to development ([Declaration on the Right to Development](#), art. 7).<sup>8</sup> Therefore, the right to development should be integrated into discussions on disarmament and post-conflict reconstruction. Given the impact that international organizations have on realizing the right to development, it is important that United Nations agencies, international organizations and international financial institutions mainstream the right-to-development approach in their work ([Declaration](#), arts. 3-4). Rights holders should also have ownership over, and benefit equally from, initiatives aimed at achieving the 2030 Agenda for Sustainable Development. Promoting a right-to-development approach to the Sustainable Development Goals will ensure that efforts taken to achieve the Goals are equitable, participatory, people-centred and non-discriminatory.

Understanding that individuals and communities must drive the processes for their own development has implications for how development is financed. When financing for development is viewed through the lens of the right to development, it is not a concept based on charity. Nor is it about giving resources according to the motivations and visions of a donor.

Rather, truly implementing individuals and communities’ right to development means financing the development **priorities that are expressed by recipients**. Some international instruments and policy frameworks already incorporate this approach, notably the [2030 Agenda for Sustainable Development](#) and the [Addis Ababa Action Agenda](#) of the Third International Conference on Financing for

Development. The present guidelines seek to reinforce these frameworks.

Under a right to development approach, outcomes and methodologies are assessed not only against universal measurements, but also against context-specific measurements. This context based approach to monitoring and evaluating development policies and projects scrutinizes whether policies are effectively improving the well-being of “the human person,” per the [Declaration on the Right to Development](#). In cases where a person’s well-being is harmed, accountability mechanisms should rectify those harms.

In the guidelines, elements of fulfilling the right to development are grouped under particular themes. However, these elements are like all facets of the right to development, interdependent and indivisible ([Declaration](#), art. 9).



# 3

## Promoting Active, Meaningful and Informed Participation



### Guidelines on Participation

The Declaration on the Right to Development indicates that development policies should aim for the constant improvement of the well-being of the entire population and all individuals. This improvement should be based on their active, free and meaningful participation in development (Declaration, art. 2). Thus, this paradigm implies a twofold set of rights and duties. First, all community members should be involved as participants in formulating development policies. Secondly, all policies should **benefit all people equally**.

The present guidelines emphasize the principle that affected communities must have ownership over development agendas, budgets and processes. Thus, the following recommendations address the need to ensure that all segments of society benefit from development. The recommendations also highlight visible and unseen barriers to participation, such as a lack of a legal identity, or the existence of violence or social restrictions. The guidelines clarify that participation can only be effective if it is institutionalized and continuous.

#### Examples:

In the Latin America and Caribbean region, a permanent “seat at the table” at government bodies has been designated for civil society actors to participate in decision-making. In an Eastern European country, key affected communities are included alongside representatives of governmental, non-governmental and private organizations in a nationwide mechanism that coordinates the country’s response to HIV/AIDS, tuberculosis and malaria.

### National Level Recommendations on Participation

States should understand “participation” as a continuum that involves consultation, participation, monitoring and evaluation and access to justice. An integrated participation scheme should include all of these elements, and should involve as decision-makers groups that are affected by particular development policies, programmes and projects.

States should institute public planning processes that are participatory and include monitoring mechanisms. National policies should align with local development needs in order to foster synergies and correlation among institutions. Whenever possible, States should decentralize participatory planning processes, which will enable local communities to pursue development initiatives that reflect their interests and will draw more domestic resources.

#### Example:

In 2008, a North African State began a participatory process for developing their National Plan for Democracy and Human Rights. The Prime Minister established a multi-stakeholder steering committee, which organized a series of seminars, workshops and national and regional symposia in several cities and provinces. Actors from various government sectors, national institutions, political parties, unions and non-governmental organizations (NGOs) participated in the process. The Government concluded that this consultative and participatory approach facilitated the emergence of strategic choices and a collective vision for the priorities of the National Plan for Democracy and Human Rights.<sup>9</sup>

Governments at all levels should mobilize and empower constituencies to advocate for their own development agendas. Governments should institutionalize civil society participation as an integral part of development planning processes. This includes planning in advance and accounting for civil society participation in data-gathering and assessment exercises.

States should invest in building the capacity of civil society to play an active and meaningful role in development processes. Civil society should be formally involved in policy design, implementation and evaluation. This will mobilize existing local expertise and foster a sense of ownership in the process of development, while also producing less costly outputs. Civil society participation especially requires freedom of expression and access to information.

States should design and implement development projects after holding meaningful consultations to identify the development priorities of the communities in a project area,

and to identify arrangements for benefits-sharing that would be suitable for those affected by the projects. Specifically:

- Consultation processes should be institutionalized, rather than ad hoc.
- Potential conflicts of interest among those convening the consultations should be addressed to ensure that the consultations truly reflect the viewpoints of affected stakeholders. This is particularly important when a State or private actors are convening the consultations, and they are the ones who would directly benefit from the proposed project.
- The organizers of a consultation should transparently inform the consulted communities about the potential impacts of the decisions to be made, and the priorities of those affected must be taken into account.

States have a duty to ensure that non-State actors, including corporations that they host

or incorporate, and parent or controlling companies, conduct their activities in line with international human rights standards, and in line with the clearly expressed priorities of affected and beneficiary communities. Governments should also enact legislation that clearly sets out the parameters of public participation in public-private partnership schemes.

To avoid perpetuating existing inequalities when undertaking development programmes, States should pay close attention to intersecting grounds of discrimination, including discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, social origin, property, birth, disability or other status.

There should be opportunities for the equal participation of those who are more disadvantaged, including people with disabilities, women, children and youth, minorities, indigenous peoples, Afrodescendants and members of other disempowered or marginalized groups. States should provide opportunities for communities to “opt in” in cases where decisions are being made that affect them, but where they have not been affirmatively identified as an affected population. Specifically, States should:

- See migrants as agents of development, rather than addressing migration as a security issue.
- Ensure that all people, including members of minorities, have legal identity and equal access to personal identification documents since the absence of such documentation prevents participation and risks the accumulation of rights violations (e.g. in terms of access to health care, education, housing, employment, social protection and voting).
- Mobilize youth as agents of change and development.

Governments should promote the quality representation of women and marginalized populations in decision-making at the national level, including by increasing the representation of members of such groups in public and private institutions. Oftentimes, women and marginalized populations are seen as the beneficiaries of development programmes. Rarely are they among the decision makers or those who are consulted.

As a part of States' gender-oriented planning, they should take into consideration the fact that women are not a homogenous group, and therefore, pay particular attention to women who face multiple vulnerabilities and are harder to reach.

States should integrate human rights and the right to development into their national curricula. States should also promote human rights education that emphasizes gender sensitivity and non-discrimination at all levels to allow people to make informed decisions and participate in political, economic, social and cultural development.

States should establish mechanisms that provide easy access to information on development policies and processes, including those that are related to natural resource extraction. States should also enact legislation guaranteeing access to information, including information about project financing, including co-financing, and about the Sustainable Development Goals.

Governments should outline reliable and up-to-date information schemes when development plans are being designed. Government institutions should devote adequate resources

to information sharing, and they should be mandated to produce and disclose information in a timely fashion. Legal remedies should be available to ensure that access to information is not denied.

As appropriate, States and other actors should employ technology and digital networks as vehicles for increased participation, while bearing in mind that participation cannot be facilitated through technology alone given that access to technology is not uniform.

National human rights institutions should:

- Engage in public education to empower communities to claim their rights.
- Act as platforms for participation by facilitating the gathering and sharing information about development programmes.

**Example:**

A coastal lagoon province in a Southeast Asian State faces an increasing threat of natural disasters, notably floods and typhoons. In response, women have played a vital role in storm and flood control and in protecting family members. Additionally, women are largely responsible for restoring their family homes after a disaster. Nonetheless, women are often excluded from disaster preparedness education and training opportunities.

Consequently, women in this province have demanded increased representation in government policy and decision-making bodies. They have highlighted the importance of including women in “Village Rapid Response Teams,” and their efforts have led to the appointment of more than sixty local women to twelve of the teams. Based on this progress, the women have also advocated for the adoption of a policy on including women in the response teams in all of the province communes.<sup>10</sup>

**Example:**

Civil society participated in the development of a European regional information tool for new inhabitants of eight participating countries. The tool provides information about labour standards in many different languages, and the goal of the project is to promote the economic integration of migrants in the region. More specifically, the tool facilitates fairer access to employment, work and skills enhancement.<sup>11</sup>



## Regional and International Level Recommendations on Participation

### Example:

An NGO in East Africa empowers communities to participate in trade negotiations by engaging them in their locality. For instance, the NGO conducts interviews with rights holders on local radio stations. The NGO also organizes meetings that bring together government officials and rights holders to discuss community concerns about potential policies and trade agreements<sup>12</sup>.

## Recommendations on Participation for Non-State Actors

### Example:

In a Central African country, the multitude of languages that the population uses poses a major challenge to accessible information sharing—there are four official languages and hundreds of local dialects. Local NGOs have adapted by using multilingual interpreters, illustrative images and informational leaflets that have been translated into many dialects.<sup>13</sup>

States and intergovernmental organizations should promote and strengthen civil society's awareness-raising efforts related to the right to development at the regional level. States and intergovernmental organizations should develop civil society networks across their regions in order to share good practices and successes. They should create bridges among civil society actors working in the fields of development, human rights, peace and security.

States should guarantee that all stakeholders are meaningfully included in the process of negotiating international agreements, including international trade agreements. This requires building the capacity of States and non-State representatives that are engaged in negotiation processes. At the national level, information on upcoming initiatives should be made available so that civil society and concerned communities can participate in multilateral negotiation processes.

Governments should widen civic space to allow for the democratic and meaningful participation of all stakeholders in multilateral processes, including ones related to climate change.

Global and regional intergovernmental organizations should centralize the concept of stakeholder participation in their strategic planning on development processes.

All actors who produce information about development projects, including institutions, businesses and investors, should provide that information transparently. Specifically, information about development projects should be shared:

- As a matter of priority with the affected communities in their language. This might necessitate translating the information into local and indigenous languages.
- In a format that is accessible to target populations. For example, technical information should be conveyed using language understood by laypeople. Moreover, information should be made available online and/or by phone, along with community trainings on how to access the information.

Civil society should play a greater role in informing populations about the right to development and what it means for their sustainable development. Regional civil society networks should integrate the right to development into their human rights advocacy and seek to mainstream it at the local level.

Civil society and international solidarity networks should be mobilized and engaged so that they can adopt unified positions in international negotiations. Building stronger networks of civil

### Example:

Community health workers — almost all of whom are women — play an integral role in some countries' healthcare systems by providing care in poor and rural communities; the community health workers can be responsible for the basic healthcare of 1,200 people in their area. Despite their important work, many of the women are unpaid and unprotected.

In this context, a global union federation has worked to organize community health workers around the world so that they can unionize and campaign to be recognized as workers with a right to a minimum wage, pensions and other entitlements. In South Asia, some of the federation supported community health workers have been recognized as government employees, and as a result, many of the workers have become the first women in their families to secure paid work and benefits.<sup>14</sup>

society and national human rights organizations would enable stakeholders to push forward common agendas at the regional and international levels.

Human rights advocates should emphasize the relationship between achieving the Sustainable Development Goals and meeting core human rights commitments. The impetus provided by the Goals should be used to strengthen cooperation between the development sector and the human rights community.

Development banks and other financing for development stakeholders should:

- Conduct meaningful consultations to ensure that projects further the development priorities of the intended beneficiaries;
- Guarantee access to information about projects before the projects are authorized;
- Create mechanisms for holding regional and international consultations for projects that will have cross-border effects.



# 4

## Financing for Development and Mobilizing Existing Resources



### Guidelines on Financing for Development

While the Declaration on the Right to Development does not expressly include a list of financial priorities that would fulfil the right to development, the Declaration outlines principles that should guide policy decisions at the national and international levels. For instance, the Declaration states that **communities should have full sovereignty** over their natural wealth and resources (art. 1), and that the benefits of development should be fairly distributed (art. 2). The Declaration calls on States to take all necessary measures for the realization of the right to development, and to ensure equality of opportunity for all in their access to basic resources, education, health, food, housing and employment (art. 8). Moreover, at the international level, the Declaration places a duty on States to cooperate with each other, both to promote the more rapid development of developing countries, and to remove obstacles to comprehensive development (arts. 3(3) and 4(2)).

The guidelines address the principle that development financing should be sustainable and carried out in the interests of the intended beneficiaries. Where community resources must be used for broader development goals, active, meaningful and informed participation is a means through which individuals and collectives can **agree on how to share benefits**.

In light of the potential harms of States' and international organizations' reliance on austerity programmes<sup>15</sup> and public-private partnerships<sup>16</sup> for resource generation, the guidelines recommend alternative methods for mobilizing national and international resources. The guidelines also identify non-financial resources that could be mobilized.

### National Level Recommendations on Financing for Development



#### Example:

In a country in the Asia-Pacific region, a community was at risk of relocation due to a flood-way project that was proposed in the capital city. Through a civil society led consultation, community members outlined their own resettlement plan, and they agreed to resettle only if they could stay close to the city because of the benefits that the community drew from such proximity. In the end, the community was able to use compensation that the Government provided to obtain housing on land that had been previously Government owned. Most importantly, the flood-way project was implemented only after the priorities of the community had been sought out. This was crucial because the project could only move forward if the community forfeited its own resources.

States should implement effective economic and social reforms to ensure that the benefits of growth are equitably distributed to all segments of the population, and to reduce inequalities. Communities whose resources are taken or put at risk by national or regional development projects must be adequately compensated.

States should put in place gender equality and social protection policies. Governments should pay particular attention to unpaid care work by devising economic policies and national accounting methods that facilitate the redistribution of care work. Governments should also address the disproportionate impact that this kind of work has on women's development. States should recognize and formalize care work by remunerating those who take on the caring function, and by providing proper training.

#### Example:

In November 2015, the Parliament of a South American State unanimously gave legal status to the "right to be cared," and created an Integrated National Care System to make that right effective. The right to be cared was outlined as a human right of people temporarily or permanently vulnerable, such as people living with disabilities, children or older persons in a dependency situation. The law recognizes the social value of care work, and it explicitly aims to change the fact that mostly women provide care without pay. People needing care who cannot afford it can apply for a subsidy from the state that can be used to pay the caregiver, who can be a family member.

Additionally, the law breaks down silos between different ministries. The Integrated National Care System is run by a board that is composed of the ministries of Social Development, Education, Labour and Social Security, Public Health and the Finance Ministry. The board is advised by a Consultative Council with representatives from civil society, academia, unions and employers. Thus, as the law is written, it expands and promotes the human rights of vulnerable groups and women, though it remains to be seen to what extent the Government will implement the protections that it affords.<sup>17</sup>



States should ensure that budgeting is:

- Participatory and people-centred, rather than a purely economic exercise;
- Human rights-driven, and specifically promotes gender equality and other forms of equality;
- Organized at the local level with the participation of civil society.

**Example:**

In a Southeast Asian country, a Women's Development Corporation was created to facilitate the local government's commitment to implementing gender-responsive budgeting. First, the municipal council allocates a certain amount of money to a particular low-income community. Then Women's Development Corporation goes into the community to carry out a series of focus groups to identify local priorities. Next, the community votes, and the budget is allocated based on residents' own determination of their actual needs and priorities.<sup>18</sup>

States should move away from "financializing" social policies—turning social services into profit-generating opportunities. The trend of privatizing social services such as health care and education should be reversed. Under international human rights law, these areas are the primary responsibility of States.

**Example:**

In the 1990s, international financial institutions pressured a Southeast Asian country to privatize water delivery services, which resulted in residents paying some of the highest prices in the region, even though they received contaminated water. In response, a coalition of activists, trade unions and residents filed a class-action suit seeking to annul a government agreement with foreign water companies. The group claimed that the companies did not guarantee the right to clean water, and that the contaminated water left residents with health issues like skin diseases. In 2017, the country's Supreme Court ruled in favour of the citizens' challenge, finding that the privatization agreement, "has had a real and extraordinary impact on society."<sup>19</sup>

States should guarantee that communities are meaningfully involved in setting the terms for, and sharing the benefits of, all development ventures, including public-private partnerships. States should ensure that civil society plays a role in measuring the success of public-private partnerships by evaluating them based on the services that are delivered to the public, and by guaranteeing conformity with existing norms and obligations.

States should guarantee social protection floors and welfare, even in times of economic and financial crisis, in line with the Social Protection Floors Recommendation, 2012 (No. 202), of the International Labour Organization.<sup>20</sup>

Governments should conduct human rights impact assessments before taking decisions about reducing public expenditure. States should avoid austerity measures and public spending choices that would reverse progress on universal social protection and the delivery of public goods and services. States should undertake such measures only when all other resourcing options have been exhausted.

**Definition:**

**Human rights impact assessment:** an instrument for measuring the effects on human rights that a policy, piece of legislation, programme or project will have.<sup>21</sup>

States should prioritize the use of domestic resources for development over the servicing of international debt.

Governments should mobilize domestic resources for development by retaining State resources, including land; strengthening tax collection capabilities; implementing fairer, more transparent and progressive tax policies;<sup>22</sup> countering corruption; asking the private sector to pay its fair share; and ending illicit financial flows that direct resources out of countries.

Tax breaks and State subsidies for businesses should be evaluated based on whether they are achieving the goals of creating employment and providing living wages and good working conditions for the population.

Tax authorities should publish the taxation rates and revenues generated by major economic actors in order to enhance accountability in the private sector. Fiscal authorities should have a legal obligation to monitor the taxation of major economic operators and to publish relevant, accessible information. States should provide transparent access to information about public financing, tax collection and oversight processes.

States should diversify sources of revenue to ensure sustainability, thereby avoiding the negative consequences of economic shocks and discouraging corruption. Natural resource extraction should not be the only engine of development.

States should develop intentional development policies to which they remain committed over time. These policies should include:

- A specific strategy on the sectors in which the State would invest and the sequencing of that investment;
- A conscious policy commitment to social and economic inclusiveness, either through social welfare programmes or investment in public services like housing, education, social protection and health care; and
- An open policy space where policies can be evaluated and revised as needed.

States should promote social innovation and new endeavours that are aimed at meeting social needs. Governments should support, not hinder, economic activities that promote social welfare and solidarity.

States should not embark on broad economic liberalization measures without first assessing the human rights impact of the policies to be undertaken. Such measures have the potential to entrench social inequalities and undermine the regulatory capacity of States, in particular with respect to social, cultural and economic rights.



## Regional and International Level Recommendations on Financing for Development

Governments and international organizations should not focus on development financing solely as a means to generate economic returns. The debate on funding development should be recentred on States' obligations to promote development using the maximum resources available, and their obligation to seek and/or provide related international cooperation.

States should shift from a donor-recipient paradigm, to a genuine partnership with developing countries as was envisioned in the Declaration on the Right to Development, and in [Goal 17](#) of the Sustainable Development Goals, "Partnerships for the Goals." States should base their development financing on the priorities of recipient partners, and they should ensure that the recipient's priorities have been set following meaningful participation processes. States should further guarantee that beneficiary States have ownership of development projects carried out with this financing.

Governments and international organizations that are funding development programmes

should not impose conditionalities on beneficiary Governments since doing so could have adverse, unintended effects on the population. This is particularly true when the conditionalities weaken human development policies. Rather, when seeking to initiate development programmes in countries where the government does not respect rights, funders should choose alternative implementing partners (for example, civil society).

As one of the major contributors to development cooperation, the European Union should continue to promote the establishment of social protection floors, which have proved to have positive impacts.

The Green Climate Fund should be directly accessible to States and community-based stakeholders. Specifically:

- States should review the rules regulating access to the Fund so that they are more inclusive and guarantee projects that are truly geared towards reducing emissions and promoting clean energy solutions.
- States that have disproportionately contributed to climate change should meet their corresponding financial commitments, in accordance with Principle 16 of the Rio Declaration on Environment and Development.

The [Green Climate Fund](#) was set up by the United Nations Framework Convention on Climate Change in 2010 and is the world's largest dedicated fund for helping developing countries reduce their greenhouse gas emissions and increase their ability to respond to climate change.<sup>23</sup>

Developing countries should be better integrated into the global trading system. States should promote greater intraregional trade while ensuring that regional trade agreements are assessed for their human rights and environmental impacts.

States should increase their international cooperation in tax matters by:

- Exchanging information about tax payments;
- Publicizing tax rates and major economic actors' revenues;
- Ensuring that financial intermediaries do not accept illicit assets.<sup>24</sup>
- Developing a global and a regional taxation architecture to counter the race to the bottom

that is fuelled by tax policies that increasingly favour capital at the expense of people's welfare.

States should cooperate to mobilize additional resources to provide the means and facilities to foster comprehensive development through:

- Knowledge sharing;
- Technical cooperation;
- Capacity-building;
- Technology transfers;
- Collective disarmament;
- Ending the imposition of unilateral coercive measures.

States should promote the establishment of a multilateral financial monitoring mechanism and an international debt workout mechanism.

States should share good practices through South-South, triangular and North-South cooperation. States should also inform their populations about the outcome of such exchanges. Given the diversity of countries in the South, and the unequal relationships among them, a rights-based approach to cooperation is required. States should also promote cooperation with non-State actors.

## Recommendations on Financing for Development for United Nations Entities and Non-State Actors

Special procedures mandate holders and other international human rights experts should engage with the [United Nations Conference on Trade and Development](#) on macroeconomic conditions that impede the realization of the right to development.

Regional economic commissions should measure the productivity of assets in order to advise States so that they can ensure that bilateral agreements attract genuine investment.

The private sector should promote the right to development by redirecting capital towards redistribution schemes.



For more information on a human rights-based approach to South-South cooperation, see the [Special Rapporteur on the right to development's report on South-South cooperation, sustainable development and the right to development](#).<sup>25</sup>

# 5

## Monitoring and Evaluation



### Guidelines on Monitoring and Evaluation

The Declaration on the Right to Development provides that development should be carried out in such a way that all human rights and fundamental freedoms can be fully realized (art. 1(1)). The Declaration also recognizes that the human person is the central subject of development. In other words, development gains that do not benefit the human person fall short of fulfilling the right to development.

The present guidelines identify different methods for evaluating the impact of development programmes on human beings, such as community monitoring, human rights impact assessments, national institutions and crowdsourcing. **Incorporating constituents in the process** of monitoring and evaluation increases legitimacy and ensures that programmes are carried out in accordance with rights holders' priorities.

The guidelines further recognize the need to expand the traditional ways of assessing policies. This requires a move away from relying primarily on quantitative outcomes such as the number of jobs created or gross domestic product. Instead, qualitative outcomes should be incorporated.

#### Example:

In a Latin American country, the establishment of a civil society forum that worked alongside a development bank led to increased transparency while the forum was operational. Notably, access to information about the bank's projects improved.

The guidelines also acknowledge factors that hinder accurate assessments of development programmes and propose ways to overcome those shortcomings. Accordingly, the following recommendations address ways to ensure that development programmes are human rights-based and people-centred, both in their implementation and in their outcomes.

### National Level Recommendations on Monitoring and Accountability

#### Example:

In West Africa, an NGO has involved stakeholders in the monitoring and evaluation of development projects by organizing learning platforms and townhalls convening citizens and public servants. The NGO noted the importance of the use of local languages in these methods, but cited the challenge of a lack of participation when transportation to townhalls was not provided, as well as a lack of women participants.<sup>26</sup>

#### Definition:

**Multidimensionnel poverty:** the various needs and challenges that poor people experience in their daily lives, such as poor health, lack of education, inadequate living standards, disempowerment, poor quality of work, the threat of violence, and living in areas that are environmentally hazardous, among others.<sup>27</sup>

#### Example:

In a Western European country, policymakers are required to show that they have assessed a policy's impact on equality in the country before they institute the policy. The findings of the assessment must be published and are subject to public scrutiny according to that State's national legislation.

States and international organizations should measure development by considering not only gross domestic product, but also by taking into account the impact that policies have on human rights, well-being and the environment. More diverse and precise measurements of inequality should be developed, as opposed to relying on income inequality indicators.

States should develop methodologies and parameters for measuring development in a participatory manner involving civil society organizations, academia, development practitioners, social workers and community leaders. Traditional and indigenous knowledge should be taken into consideration where appropriate.

In assessing progress towards achieving Sustainable Development Goal 1 – No Poverty, and its targets, States should examine the multidimensional elements of poverty.

Governments should conduct human rights impact assessments from the very beginning of a development project or policy formulation in order to inform the design or programming of that project or policy. The assessments should ensure that affected communities' concerns are taken into account, and the assessments should be repeated periodically in order to monitor change and evaluate progress. Specifically:

- States should only allow development projects to go ahead if organizers have demonstrated that the results of a human rights impact assessment have been taken into account;
- Rather than focus solely on the impact of a project or policy on a narrow subset of individual rights, Governments should specifically evaluate the right to development in their impact assessments in order to understand the broader impacts of a project or policy. For example, Governments should take into account: effects on individuals, groups, nations and peoples; the impact of international dimensions of equality, the fair distribution of benefits and the impact on the environment; and the processes of participation, inclusiveness, non-discrimination, indivisibility of human rights and equality of opportunity.

**Example:**

In reaction to the 2030 Sustainable Development Agenda, a European regional union adopted a “Consensus on Development” that identifies a rights-based approach to development cooperation as the principle working methodology for guiding the region’s development action. The Consensus promotes inclusion and participation, non-discrimination, equality and equity, transparency and accountability.<sup>28</sup>

**Example:**

In response to the African Union’s launch of negotiations for a Continental Free Trade Area (CFTA) in 2015, the Economic Commission for Africa, the Friedrich-Ebert Stiftung Geneva Office and the OHCHR commissioned a human rights impact assessment of the CFTA to evaluate its predicted effects on human rights. The report was published in 2017 and was presented to stakeholders during the negotiations.<sup>30</sup>

- States should transparently disclose the results of human rights impact assessments to the public;
- Communities that are consulted as a part of a human rights impact assessment process should play a role in the implementation of the assessed project;
- Government officials should be trained to perform human rights impact assessments and to apply a right-to-development lens.
- Governments that have successfully implemented human rights impact assessments should share that knowledge with other Governments so that they can learn from prior practice.

Governments should conduct human rights impact assessments when planning and implementing austerity measures.<sup>29</sup> The practice of conducting human rights impact assessments should be further developed, including in areas like trade and finance.

States should promote research and development on evaluation processes. Human rights principles should be mainstreamed into evaluation trainings.

States should develop the capacity of and provide support to communities and other actors for the establishment of monitoring and evaluation mechanisms. This will enable communities to conduct evaluations of development programmes, and to produce relevant, independent reports.

Governments and international organizations should ensure that evaluations are multi-stakeholder endeavours. Evaluations should be implemented before, during and after development programmes have been executed. States should ensure that the right to development is monitored at all levels of government, including by subnational government bodies.

National councils for social and economic development (or equivalent institutions) should develop multi-stakeholder forums that facilitate the formulation of a national agenda for development that is fair and equitable. A national observatory of equality could be attached to these institutions to monitor implementation. In addition, provincial councils should be established to carry out similar work at the local level.

States should train authorities at all levels to conduct and respond to evaluations. States should make government officials aware that evaluations of development policies and programmes such as sectoral policies will be carried out.

States should collect disaggregated data. Data disaggregation efforts need to draw on a [human rights-based approach to data](#).<sup>31</sup> The aim of such an approach is to evaluate not only the outcomes of policies, but also the structures and processes

that lead to those outcomes. Specifically:

- The process of data collection should actively involve the community about whom the information is being gathered;
- Respondents should be able to self-select how they identify in terms of ethnicity, sexual orientation, gender identity and disability status;
- Data privacy should be maintained and balanced against the need for transparency;
- Data should be disaggregated to enable an assessment of how policies and programmes are affecting individuals and groups that have faced discrimination.

National statistical offices and national human rights institutions should collaborate to facilitate the operationalization of a human rights-based approach to data.

States should enhance their international cooperation for capacity-building activities that are aimed at improving data collection in developed and developing countries.

Civil society’s capacity to gather disaggregated data should be enhanced and innovative approaches should be developed to bridge gaps in data collection. In that regard, civil society should work closely with national statistical institutes.

States should guarantee the existence of a civic space conducive to the gathering of reliable data, especially for assessing communities’ true perceptions.

States should ensure that women are equally represented in decision-making related to monitoring and evaluation, both at national and local levels. A gender-sensitive approach should be systematically integrated into evaluation processes.

States should empower targeted recipients of social programmes, including the poor, to conduct social audits of the public sector departments and ministries that are responsible for delivering such programmes.

In States’ monitoring and evaluation policies, they should take into account groups that have been discriminated against or historically excluded, including women, ethnic and religious minorities or suppressed majorities, indigenous peoples, persons with disabilities, internally displaced persons, refugees and asylum seekers, deep rural communities, forest communities, nomadic communities, youth, those who may be unaccounted for including stateless peoples, people deprived of liberty and others. Governments should undertake a mapping exercise through the collection of disaggregated data of those who are excluded along prohibited grounds of discrimination, while taking into consideration issues of intersectionality.

**Example:**

When certain neighbourhoods in a Central African country were threatened with eviction, an NGO assisted residents with collecting data that they could use for advocacy. They created “participatory maps” that showed the local population’s socio-economic conditions, which helped demonstrate the social damage that would result from evictions. The residents presented the maps to the authorities, and the government established a mediation commission to address concerns that the evictions were a land grab for foreign companies.<sup>32</sup>

**Example:**

A pan-African NGO network organizes women and girls to advocate for integrating a women’s rights approach into development work. To that end, the network emphasizes gender equality and monitors the ratification and domestication of the Protocol to the African Charter on the rights of women in Africa (the Maputo Protocol).<sup>33</sup>

**Example:**

A North African Government has implemented a geolocation monitoring system that is used in conjunction with household surveys to assess where services are needed based on development indicators such as health and education levels. The Government also evaluates the efficacy of current programs this way. For instance, the Government can overlay population data onto maps showing where schools are. By comparing with maps showing the literacy rates of the population, the Government can analyse where more educational resources are needed.<sup>34</sup>

States should adopt mixed approaches to data collection in order to capitalize on existing resources. They could do so by using mass media and communication tools as resources for data collection, and by building networks of opinion leaders. For example, traditional and religious leaders, including women leaders, could gather information while ensuring the inclusion and active participation of disadvantaged groups.

States should use local capacities to conduct evaluations and should promote the expertise that has been developed by civil society networks that specialize in evaluation.

## **Regional and International Level Recommendations on Monitoring and Accountability**

States should exchange good practices on evaluating development policies and programmes. They should promote South-South cooperation on evaluation, including by reporting good practices in periodic reports, and by developing an online repository of promising practices.

States should conduct comprehensive and independent assessments of the environmental, social and human rights impacts of transboundary policies and projects in order to address the negative impacts that these projects could have in multiple countries. Such assessments should be embedded in the design

of the policies or projects, with their costs budgeted in advance. The assessments should be either led by the communities concerned, or they should have their full and effective participation or approval. Additionally, the outcomes of the assessments should be publicized.

With the technical assistance of international organizations, States should conduct systematic human rights impact assessments on trade agreements to avoid causing harm to the environment and human rights.

Environmental and social safeguards should be enforceable. States should have a role in setting such safeguards, gathering the necessary information and determining whether private enterprises and investment banks are complying with them. Given that most international financial institutions are public institutions, States should hold them accountable to regional and international legal standards.

Special procedures mandate holders and other international human rights experts should engage with emerging development banks in order to provide guidance and advice on how they can promote a rights-based approach to their activities, particularly as these financial institutions look to provide an alternative to the Bretton Woods model of development financing.

Development banks should respect environmental and social safeguards. They should not attempt

## **Recommendations on Monitoring and Accountability for United Nations Mechanisms and Non-State Actors**

to avoid them by financing projects through third parties. Specifically:

- Development banks should make their environmental and social safeguarding policies more accessible to ordinary people and they should adopt explicit human rights policies;
- Development banks' monitoring mechanisms should be more participatory, and they should ensure direct contact with affected communities and impacted areas. The banks should go beyond mediation and incorporate the possibility of vetoing projects that are not endorsed by the affected communities.

After holding adequate consultations with relevant civil society entities, recently established international financial institutions and development agencies should formulate and implement safeguarding policies that are in line with international human rights standards.

International financial institutions and banks should conduct systematic human rights impact assessments and monitor and evaluate their policies. In particular, human rights impact assessments should be conducted on austerity measures; structural adjustments; securities, trade and investment agreements. Specifically:

- International financial institutions should support and implement the guiding principles on human rights impact assessments of economic reforms that were developed by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment

of human rights human rights, particularly economic, social and cultural rights,<sup>35</sup>

- Development banks should disseminate more information on the long-term impact of their projects, including the impact on countries where they operate.

Civil society and affected populations should make use of development banks' existing monitoring mechanisms, such as the Compliance Advisor Ombudsman of the International Finance Corporation and the Multilateral Investment Guarantee Agency (members of the World Bank Group) and the Independent Consultation and Investigation Mechanism of the Inter-American Development Bank. Banks should reform these mechanisms when they prove ineffective.

Communities themselves should complement the State's data-collection efforts, with the engagement of civil society organizations and academic bodies. Civil society should seek additional resources for the collection of disaggregated data that would add to information drawn from official State sources, particularly in politically sensitive environments or on politically sensitive issues.

Stakeholders, including civil society organizations and other non-State actors, should be trained to conduct human rights assessments and to apply a right-to-development lens.

Regional civil society networks should weigh in on the development policies of newly established development banks in their respective regions.

**Example:**

An NGO set up an "Early Warning System" to provide local communities and organizations with verified information about proposed large-scale development projects that are likely to cause human and environmental rights abuses. The NGO assists affected communities with conducting community led research that builds on local knowledge, customs and traditions to produce their own information for advocacy on changing or stopping projects. As a result of the Early Warning System, the NGO helped communities lobby international financial institutions to withdraw support from a large-scale water project in an East African country because of resettlement and environmental concerns.<sup>36</sup>

# 6

## Promoting Accountability and Access to Remedy



### Guidelines on Accountability and Access to Remedy

It is only possible to give effect to the right to development if there are adequate accountability mechanisms and remedies in the case of violations. There are several prospective avenues for seeking accountability since individuals and collectives are considered rights holders, and States are considered duty bearers.

Many of these avenues for accountability are set out in the present guidelines. They include national courts, administrative procedures, complaints mechanisms and national human rights institutions. The guidelines also identify international bodies that could complement national accountability mechanisms. For example, in the Committee on Economic, Social and Cultural Rights' [2011 statement](#) on the importance and relevance of the right to development, the Committee pledged to monitor the implementation of all of the rights protected by the International Covenant on Economic, Social and Cultural Rights that contribute to the realization of the right to development.<sup>37</sup>

The present guidelines emphasize that available mechanisms should be **reliable, prompt and guarantee remedy**. Furthermore, proposals are made to address the practical obstacles that individuals and communities face in seeking justice, such as a lack of legal standing to bring forward cases, a lack of jurisdiction over right to development cases and the inaccessibility of accountability mechanisms due to their cost or remoteness.

### National Level Recommendations on Accountability

States should adopt legislation that:

- Makes economic, social and cultural rights and the right to development justiciable.
- Provides additional avenues for claiming economic, social and cultural rights, including quasi-judicial mechanisms.
- Enables public interest litigation. Such litigation should ensure compliance not only with domestic laws, but also with international norms related to the right to development.

States should use the observations and recommendations of human rights mechanisms to enhance the protection of the right to development, and economic, social and cultural rights through case law at the local and national levels.

States should make accountability mechanisms more visible and accessible, including to persons speaking minority languages and to persons with disabilities. The legal standing of victims should be strengthened.

States should strengthen domestic judicial remedies to deliver transparent and timely relief. Specifically, States should:

- Make the outcomes of cases publicly available and publish statistics on decisions taken;
- Require the perpetrators of human rights violations that are related to the right to development to resolve their cases. Perpetrators should be subject to compensation deadlines;
- Provide not only judicial remedies, but also administrative remedies, such as facilitating access to public services, in relation to the right to development;
- Ensure access to justice, reparations and effective remedies for those whose rights have been violated as a result of natural resource exploitation.

States should reverse legislation that precludes persons who have been deprived of legal capacity from challenging this status, and thereby, from having the standing to bring forward cases.

States should adopt and implement comprehensive laws on equality, including mechanisms that provide effective remedies for discrimination.

In accordance with [target 10.3](#) of the Sustainable Development Goals, States should adopt anti-discrimination legislation that provides an avenue for bringing cases to national courts. The legislation should contain comprehensive definitions of discrimination and the grounds for discrimination, which should include all of the grounds prohibited under international human rights law. The legislation should be effectively enforced.

States should remove economic and other obstacles to accessing justice, especially in cases involving violations of economic, social and cultural rights. States should provide free legal aid to indigenous peoples and other individuals and communities, not only for criminal cases, but also for cases involving violations of economic, social and cultural rights.

#### Example:

In 2018, twenty-four countries adopted [the Escazú Convention](#), which is also known as the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters. The Convention has been hailed as the region's first legally binding treaty on environmental rights, and it requires governments to take measures to prevent, investigate and punish threats and attacks against human rights defenders in environmental matters.

The Convention requires governments to ensure that vulnerable populations, like indigenous peoples and poor communities, can exercise their full rights to information, participation and justice. Under the Convention, governments must provide free legal assistance and create more accessible communication channels between affected communities and political officials.

Governments must guarantee opportunities for public participation in projects that will significantly impact the environment. They must involve the public early on in the decision-making process, and after a decision has been made, they must inform citizens of how their input shaped the final outcome.<sup>38</sup>

States should put into place effective mechanisms to guarantee that development projects are carried out according to international transparency standards, and in line with the [Rio Declaration on Environment and Development](#).<sup>39</sup>

Parliamentary committees that are tasked with addressing issues related to the right to development should provide oversight when the right has been violated. States should utilize inquiries and public hearings as additional means of accountability.

States should establish and strengthen institutional grievance mechanisms that will allow communities and individuals to express their concerns about development processes, including processes involving the public sector. This would address the

difficulties that communities face with respect to accessing justice through the judiciary due to the protected status of corporations. These mechanisms would also address the fact that some protests arise from a lack of effective grievance mechanisms.

States where transnational corporations and other business enterprises (or their parent or controlling companies) are hosted or incorporated should take measures to ensure that independent authorities provide prompt, accessible and effective remedies for the human rights violations of these enterprises. Such measures include the administrative, legislative, investigative and adjudicatory processes necessary to ensure just remedies.

Governments should regulate the actions of the private sector in line with the [Guiding Principles on Business and Human Rights](#). In particular, States should require businesses to undertake human rights due diligence and impose criminal liability for businesses that violate human rights.<sup>40</sup>

National human rights institutions should take up economic, cultural, environmental and social rights claims, and claims related to the right to development. National human rights institutions should advocate in favour of making violations of these rights justiciable in their countries, in addition to playing a stronger role in promoting and protecting these rights. Specifically, they should:

- Refer to specific Sustainable Development Goals when analysing cases in order to illustrate how those cases relate to development outcomes. This is particularly relevant when national human rights institutions have signed a declaration agreeing to monitor the implementation of the Goals in their own countries;
- Actively raise issues related to the right to development at the national and international levels, including when participating in universal periodic review processes, and in treaty body reviews;
- Monitor States' fulfilment of their extraterritorial obligations, for example in the context of countries' foreign investments;

- Conduct investigations and put forward recommendations to Governments, not only in response to human rights violations that have already taken place, but also prospectively, to ensure that proposed development policies comply with human rights principles.

**Example:**

A Latin American National Human Rights Institution partnered with academic and civil society organisations to carry out studies on economic rights subjects. For instance, the Institution has studied the impact of minimum wage policies, public budgeting and corruption on human rights. The studies have helped to sensitize policymakers to the potential impact of these policies before they are put in place.<sup>42</sup>

**Example:**

In 2016, the International Service of Human Rights launched a Model National Law for the Recognition and Protection of Human Rights Defenders to provide support for the implementation of international human rights law on the rights and protections guaranteed to human rights defenders at the domestic level. This model law is unique in that it was developed following consultations with five hundred human rights defenders from over one hundred and ten countries around the world.<sup>44</sup>



**Example:**

In a South Asian country, the passage of legislation called the Forest Rights Act enabled communities to obtain collective rights to forest lands. Indigenous forest-dwelling communities subsequently organized to claim their community land rights, and they are now developing the land without the fear of being evicted.<sup>45</sup>

States should provide a safe environment that protects human rights defenders and civil society organizations, thereby enabling them to freely play their role in protecting the right to development. Specifically:

- States and intergovernmental organizations should consult and collaborate with human rights defenders, recognizing the role that they play in advancing the right to development, especially in the defence of land, natural resources and the environment more generally;<sup>43</sup>
- States should empower and protect civil society organizations and defenders who are fighting corruption and financial crimes, seeking social justice, investigating illicit financial flows and documenting the adverse impacts of development policies and projects;
- States should recognize and protect the work of women human rights defenders, end all forms of persecution and violence against them, and ensure an enabling environment for their activism to realize the right to development;
- States and international development partners should provide adequate financial and other resources to non-governmental organizations, human rights defenders and other stakeholders whose work supports the realization of all human rights, including the right to development.

States should respect the claims of indigenous peoples for land and associated rights, preserve their interests and seek their free, prior and informed consent in development processes.

## Regional and International Level Recommendations on Accountability

States should properly resource international complaints mechanisms at the global and regional levels. States should also invest in supporting strong mechanisms for implementing and following up on their findings and recommendations.

States should ratify the [Optional Protocol to the International Covenant on Economic, Social and Cultural Rights](#), which will enable individuals and civil society to raise specific cases under the Covenant.

States members of the African Union should ratify the [Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights](#). They should recognize the competence of the Court to receive cases from individuals and civil society.

States should systematically include practical examples of how their implementation of the 2030 Agenda for Sustainable Development has had a positive impact on advancing human rights when they report to the international human rights treaty bodies.

States involved in the [universal periodic review process](#) of the Human Rights Council should report on progress made on the right

to development. The United Nations should support initiatives in this regard, including with capacity-building assistance.

States should promote the integration of human rights into reports on the implementation of the Sustainable Development Goals, particularly as States review the format and organizational aspects of the [high-level political forum](#) on sustainable development.

States and other stakeholders should conduct further advocacy to bring the implementation of the [Paris Agreement on Climate Change](#) into full conformity with the obligation to respect, protect, promote and fulfil human rights, including the right to development.

States should fulfil their extraterritorial obligations by regulating the actions of multinational corporations headquartered in their territories. They should support the creation of a legally binding treaty on transnational corporations that would also bind State-owned corporations.

States and investors should reform the investor-State dispute settlement system, which allows complaints against States in relation to investment agreements, so that it is fairer and in compliance with international human rights standards.

States should establish dispute settlement mechanisms at the regional and international levels that promote and respect State sovereignty and equality between States.

## Recommendations on Accountability for United Nations Entities and Non-State Actors

The United Nations treaty monitoring bodies should systematically include assessments of States parties' implementation of the right to development in their periodic reviews. Civil society should actively participate in such reviews, including by submitting shadow reports on the implementation of the right to development. These reports may also be shared with the [Working Group on the Right to Development](#).

Civil society should monitor trials with a view to improving access to justice and increasing the fairness of trials. Efforts should be made to ensure that trial-monitoring programmes are sustainable even if foreign funders and international organizations cease funding.

Civil society should participate in parliamentary oversight assessments of the work of development banks.

Regional human rights mechanisms should play a stronger role in advocating for the right to development by monitoring development processes, investigating related human rights violations and by developing their own accountability mechanisms.

Civil society and communities should submit more cases that are related to violations of economic, social and cultural rights to the inter-American human rights system. The Inter-American Court of Human Rights first found a violation relating to economic, social, educational scientific and cultural rights (article 26 of the [American Convention on Human Rights](#)) in 2017.<sup>46</sup> Hence, more remains to be done to enforce those rights.

Recently established international financial institutions and development agencies should establish effective grievance mechanisms after holding adequate consultations with relevant civil society organizations. Communities should make use of existing mechanisms.

International financial institutions should:

- Make their monitoring and accountability mechanisms more accessible to individuals and communities (economically and practically);
- Systematically provide information on existing mechanisms.





# 7

## Conclusion



The Special Rapporteur urges all stakeholders to put into practice the above guidelines and recommendations in order to further the practical implementation of the right to development. He reiterates the foundational principle of the guidelines—fulfilling the right to development requires empowering persons, individually and collectively, to decide their own development priorities, and their preferred methods for attaining those priorities.

The Special Rapporteur expresses his gratitude to all of the participants and contributors to the regional consultations. He will seek their continued cooperation as he furthers his mandate of contributing to the promotion, protection and fulfilment of the right to development.

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Guidelines and  
Recommendations on the  
Practical Implementation of  
the Right to Development

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