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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

Human rights and international solidarity

Note by the United Nations High Commissioner for Human Rights*

The United Nations High Commissioner for Human Rights has the honour to submit to the Human Rights Council the report of the independent expert on human rights and international solidarity, Rudi Muhammad Rizki, appointed pursuant to resolution 2005/55 of the Commission on Human Rights, whose mandate was renewed by the Council in its resolution 7/5.

* Late submission.

Summary

The present report is submitted in accordance with Human Rights Council resolution 9/2, in which the Council requested the independent expert on human rights and international solidarity to continue his work on the preparation of a draft declaration on the right of peoples and individuals to international solidarity, and to submit a report on the implementation of that resolution at its twelfth session.

The present report is divided into three sections. In the first, the independent expert considers international solidarity as a principle of international human rights law; in the second, he deals with international solidarity in relation to the eradication of poverty; and in the third, he reviews international solidarity and cooperation in natural disasters and combating diseases. The independent expert highlights some elements of the scope, content and nature of obligations in the promotion and protection of the right of peoples and individuals to international solidarity.

The independent expert concludes that there is adequate evidence of the existence of a principle of international solidarity and numerous global public values, policies and both hard and soft laws, followed in practice, which can support the construction of a normative framework for human rights and international solidarity and the emergence of a right of peoples and individuals to international solidarity.

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I. INTRODUCTION

1. In his first report (E/CN.4/2006/96), the independent expert, analysed his mandate pursuant to resolution 2005/55 of the Commission on Human Rights, set out an approach to the mandate and a methodology, and identified specific areas of focus in international solidarity, namely, international cooperation, global responses to natural disasters, agricultural pests and diseases, and third-generation rights.

2. In its resolution 6/3, the Human Rights Council urged the international community to consider urgently concrete measures to promote and consolidate international assistance to developing countries in their endeavours for development and for the promotion of conditions that made the full realization of all human rights possible. The Council also took into account the urgent need to further develop guidelines, standards, norms and principles with a view to promoting and protecting the right of peoples and individuals to international solidarity.

3. In his second report (A/HRC/4/8), the independent expert elaborated on three areas of focus. Practical examples were provided of specific considerations and priority areas that should be taken into account when dealing with these concerns. The independent expert defined international solidarity as the union of interests or purpose among the countries of the world and social cohesion between them, based upon the dependence of States and other international actors on each other, in order to preserve the order and very survival of international society, and in order to achieve collective goals that require international cooperation and joint action. The independent expert viewed the definition as not limited to the actions of States and emphasized that the term “global solidarity” was broader, as it encompassed the relationship of solidarity between States and other actors, such as international organizations, and civil society.

4. In its resolution 7/5, the Council reiterated that the independent expert should seek views and contributions from Governments, United Nations agencies, other relevant international organizations and non-governmental organizations in the discharge of his mandate.

5. In his third report (A/HRC/9/10), the independent expert analysed further the concept of international cooperation and highlighted the preliminary steps to be taken towards preparing a draft declaration on the right of peoples and individuals to international solidarity. He included a draft questionnaire to be sent to States, international organizations and non-governmental organizations.

6. In its resolution 9/2, the Council again urged the international community to consider urgently concrete measures to promote and consolidate international assistance to developing countries in their development endeavours and for the promotion of conditions conducive to the full realization of all human rights.

7. Considering it important to make incremental progress towards the establishment of the legal framework of international solidarity and cooperation, in the present report, the independent expert analyses the concept of international solidarity as a principle of international human rights law, reviews international solidarity in relation to the eradication of poverty, and considers international solidarity in the context of key areas of focus, global responses to natural

disasters and to diseases. He highlights some elements of the scope, content and nature of obligations in the promotion and protection of the right of peoples and individuals to international solidarity. Pursuant to further reflection on his mandate, and the responses to the questionnaire, the independent expert will henceforth construe international cooperation as the core component of international solidarity rather than as a specific area of focus. Likewise, third-generation rights are discussed in explaining the nature of international solidarity rather than as an area of focus.

8. As envisaged in his third report, the independent expert distributed on 7 May 2009 a questionnaire to Member States, United Nations departments and bodies, specialized agencies, other international organizations and non-governmental organizations, as well as special procedures mandate holders of the Council. The responses received were analysed and taken into account in presenting his views on human rights and international solidarity in the present report, so far as they depicted certain trends, represented useful insights or highlighted salient elements. The independent expert considers it essential that he receive responses to the questionnaire from as many of the above-mentioned respondents as possible so that he would be in a position to form informed opinions on international solidarity, based upon various perspectives and practices. Therefore, the independent expert urges all recipients to respond to the questionnaire as soon as possible.

9. The independent expert is aware that the present report was written against the backdrop of a world faced by multiple crises - fuel, food, economic and financial - which in turn gave primacy to the urgent and unequivocal need for international solidarity. The argument in favour of international solidarity as a principle or, more precisely, a cardinal principle of public international law, in particular, international human rights law, is reinforced now more than ever. Global interdependence, which underpins the continuous processes of globalization, brings many advantages to humanity, but also disadvantages, as demonstrated by these crises. While the financial crisis has a major impact on all States and communities, the hardest hit are the poorer countries, and underprivileged peoples in all countries, as they are the most vulnerable and least able to deal with the challenges posed. Vulnerable groups include women, children, minorities, indigenous peoples, migrants, refugees and persons with disabilities. Another global phenomenon, climate change, like the multiple crises, is linked in both cause and consequence, to the individual and collective actions of States and other actors, and underscores the need for international and global solidarity. At its tenth special session in February 2009, the Council urged that a human rights perspective be mainstreamed into the international community's approach to the global economic and financial crisis. States are not relieved of their human rights obligations in times of crisis. Measures of international solidarity and cooperation to protect the most vulnerable groups and individuals most adversely affected or threatened by the crises need to be put in place. One factor that is clearly visible in all crisis situations, including climate change, is the role of non-State actors; in this context, the independent expert reiterates his call for global solidarity, mandating cooperation among all stakeholders: States, international and non-governmental organizations, the private sector and all individuals.

II. INTERNATIONAL SOLIDARITY AS A PRINCIPLE OF INTERNATIONAL HUMAN RIGHTS LAW

A. Evolution, content, scope and nature of solidarity rights and obligations

10. Collective human rights were first advanced in the 1960s by the Non-Aligned Movement. The recognition of the right of peoples to self-determination reshaped the destiny of the international community of States, international law and relations. The extension of peoples' rights to include more categories was meant to be effected through the elevation of the duty to cooperate to achieve the objectives of the Charter of the United Nations, in combination with an emerging principle of solidarity. In this way, the correlative duties implicit in human rights were supposed to be transformed into concrete obligations.¹ These initiatives reached their high point in the 1970s, when a range of peoples' rights were enshrined in the African Charter on Human and Peoples' Rights, which contained various relevant binding legal obligations. Subsequent efforts saw the recognition of, inter alia, the rights to development, peace and environment, and those of minorities and indigenous peoples. The emerging principle underscored the recognition of several other rights; some of such other rights were entrenched in treaty provisions, and continued to evolve as reflected in law, policy and practice. Accordingly, the principle of international solidarity is itself well established.

11. Peoples' rights are firmly established in international law.² Referred to also as solidarity or third-generation rights, they have become a legal norm in human rights law. They are embodied in both hard- and soft-law instruments; with regard to the latter, the challenge is in the effective implementation and enforcement of norms. Soft-law norms need to progressively develop into hard law in the processes involved in the making of international law. Solidarity rights are conceived of as a product of social history, with the understanding that, with time, within the international community, new, justified claims will arise and need to be addressed and adjudicated to provide a higher level of protection to people. Rather than operating through the empowerment of the individual, collective rights function at a societal level to assure public benefits that can only be enjoyed in common with similarly situated individuals, but that cannot be fulfilled solely through individual rights mechanisms. Collective rights have proven effective in shifting the balance of power in international relations, creating widely recognized, if not always realized, entitlements in international law and responding to the societal effects of globalization.³ In the multiple crisis situations of today's world, the importance of solidarity rights is phenomenal. Human rights, which are by nature dynamic and constantly evolving, need to accommodate new rights, just as each generation should contribute to their evolution, in keeping with the aspirations and values of the time.

¹ P. Alston (ed.), *Peoples Rights*, Oxford University Press, Oxford, 2001.

² J. Crawford, "Some conclusions", in James Crawford (ed.), *The Rights of Peoples*, 1988.

³ B.M. Meier, "Advancing health rights in a globalized world: responding to globalization, through a collective human right to public health", *35 Journal of Law, Medicine & Ethics*, 2007.

B. Right and duty, principle and practice

12. In a working paper submitted to the Subcommission on the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2004/43), Rui Baltazar Dos Santos Alves argued that if the assumption of international solidarity as a right/duty was always present in spheres such as international humanitarian law, there was no valid reason why it should not also inspire human rights questions. The growing intervention of many players in actions to restore social balance, including United Nations entities, non-governmental organizations, transnational companies, human rights defenders, trade unions and private individuals, are all more or less inspired by the right or duty of international solidarity.

13. Instruments of law and policy encompassing international solidarity and cooperation are practically implemented by numerous acts of international cooperation that constitute evidence of State practice in line with belief, or *opinio juris*. States participate collectively within the framework of numerous global, regional and subregional organizations with multilateral and bilateral arrangements, again demonstrating solidarity in principle and practice. Further, there is a preponderance of practices of other stakeholders that together with State practice, constitute a formidable body of actual practice, consonant with conviction, of an implicit or explicit recognition of international solidarity as a principle of international law.

14. While most of the arrangements that guide cooperation practice belong to the realm of soft law (*lex ferenda* and international public policy rather than *lex lata*), there is clearly a supreme value of solidarity and a related value system that can inform the progressive development of international law, legal development at the regional and national levels towards an integrated and cohesive principle of international solidarity, as well as an emerging right of peoples and individuals to international solidarity.

15. In his paper, Mr. Dos Santos Alves stated that the right to health (art. 25 of the Universal Declaration), for instance, faced with the HIV/AIDS pandemic, was leading to a broad movement of international solidarity, and it had even forced other rights (such as patent property rights) to yield before a greater and more global interest that posed a threat to humanity. He added that similar examples could be drawn from the debates and the measures taken in areas as different as world trade, the debt of third-world countries, the protection and defence of the environment, the struggle against hunger and poverty, the initiatives to create solidarity funds and the debates about the role of international financial institutions, the transfer of technology, how to achieve the Millennium Development Goals and the fight against terrorism. In such a context, he concluded, the right/duty of international solidarity as an essential factor in attaining human rights could not be called in question and should be a cornerstone in the reconstruction of international relations in the twenty-first century.

C. Sources of international law

16. The recognition of solidarity as a principle is consonant with article 38 (1) of the Statute of the International Court of Justice, which enumerates the sources of international law as (a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting States; (b) international custom as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) subject to the provisions of article 59, judicial decisions of the most highly qualified publicists of the

various nations as a subsidiary means for the determination of rules of law. The principle of solidarity could be regarded as a general principle of law, evidenced by hard and soft laws, and supported by policies and practices; in certain areas, it could be regarded as customary law in the making. It is encompassed in treaty provisions to a limited extent. A broad, purposive approach to the interpretation of sources and an approach to international law as a normative system or process, rather than as rules, is also helpful. “If law as rules requires the application of outdated and inappropriate norms, then law as process encourages interpretation and choice that is more compatible with values we seek to promote and objectives we seek to achieve.”⁴

17. An elaboration on specific obligations is found in the general comments of the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights. In its general comment No. 5, the Committee on the Rights of the Child outlined States parties’ obligations to develop general measures of implementation.⁵ According to article 4 of the Convention on the Rights of the Child, States parties should take “all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention”. With regard to economic, social and cultural rights, States parties should take such measures “to the maximum extent of their available resources and, where needed, within the framework of international cooperation”. Since lack of resources can hamper the full implementation of economic, social and cultural rights, the article encompasses the notion of progressive realization of such rights; States must demonstrate that they have implemented rights to the maximum extent of their available resources and, where necessary, have sought international cooperation. When States ratify the Convention, they agree to obligations not only to implement within their jurisdiction, but also to contribute, through international cooperation, to global implementation. The wording is similar to that found in the International Covenant on Economic, Social and Cultural Rights, as is the interpretation: even where resources are limited, the obligation remains for the State party to strive to ensure the widest possible enjoyment of the rights.

18. In its resolution 8/5 on the promotion of a democratic and equitable international order, the Human Rights Council requested the human rights treaty bodies, OHCHR and the mechanisms of the Council and the Advisory Committee to pay due attention, within their respective mandates, to that resolution and to make a contribution to its implementation. Therein, the Council affirmed that people had the right to a democratic and equitable international order, which requires, inter alia, the right of every human person and all peoples to development as a universal and inalienable right and an integral part of fundamental human rights, as mentioned in paragraph 3 (c) of the resolution. In paragraph 3 (f), the Council also referred to international solidarity, as a right of peoples and individuals, which is a component of the right to a democratic and equitable international order.

⁴ R. Higgins, *Problems and Process: International Law and How We Use It*, Oxford University Press, Oxford, 1994.

⁵ CRC/GC/2003/5.

D. Views on solidarity as a principle of international law

19. In the view of one respondent, international solidarity is an essential part of international cooperation. International solidarity is definitely a principle of international law and, in particular, of international human rights law; article 28 of the Universal Declaration of Human Rights clearly states that every person has a right to a “just social and international order”, enshrining this right as a principle by which all countries must abide. It is therefore viewed as both a principle and a right. According to another respondent, international solidarity should be a principle of international law, particularly human rights law, as this principle is the keystone of our responsibility to protect people and to defend their rights. Preserving order and the very survival of international society should be based on the principle of solidarity and mutual assistance, particularly when a country faces a natural disaster, poverty and/or terrorism or is in a post-conflict situation.

20. Some Member States perceive international solidarity as a superior right that supports other rights such as freedom, equality and security, and as a value that is embodied in principles that act to serve the human person, the purpose of which is to contribute to the autonomy, independence and economic and social freedom of less developed countries and, of course, their respective people. Since solidarity has been described as the tenderness of the people, the value of international solidarity is a key instrument guiding the implementation and interpretation of human rights.

E. International cooperation: a core component

21. International solidarity is at the heart of international cooperation. In its preamble, the Charter of the United Nations sets forth the importance of fundamental human rights, freedoms and dignity, progress and better standards of life. Article 1 states that a fundamental purpose of the United Nations is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all. The need for international cooperation has been repeatedly emphasized by the General Assembly. Under Article 55 of the Charter, the United Nations has a duty to promote higher standards of living, full employment and conditions of economic and social progress and development; solutions of international economic, social, health and related problems; and international cultural and educational cooperation and universal respect for, and observance of, human rights and fundamental freedoms. Article 56 states that Members “pledge themselves to take joint and separate action in cooperation with the Organization for the achievement for the purposes set forth in Article 55”. According to some interpretations, this imposes a legal obligation on Member States. According to the Special Rapporteurs to the Subcommission for the Promotion and Protection of Human Rights (E/CN.4/Sub.2/2000/13), action taken by Member States collectively or individually to defeat this pledge is a violation of the principles of *jus cogens*. This position supports the view that international cooperation and solidarity involve legal obligations of a prime nature. It can further be argued that obligations based on international solidarity, where they concern the most fundamental human rights, can go beyond the limits of State borders because they are due *erga omnes* (to all humanity/to the international community), rather than merely *inter partes* (between the parties).

F. Obligations of the State to respect, protect and fulfil and shared responsibility

22. While the obligations of a State to respect, protect and fulfil human rights are traditionally related to persons under its jurisdiction (nationals or foreigners), in the context of global interdependence it becomes necessary to recognize the existence of extraterritorial State obligations. With regard to the range of actions that fall within the category of international cooperation, the obligations relating to international assistance and cooperation are complementary to the primary responsibility of States to meet their national human rights obligations. International cooperation rests on the premise that developing countries may not possess the resources for the full realization of rights set forth in conventions. There is a shared responsibility for development met by States' national obligations and the obligations of international cooperation, facilitating global implementation. Responsibility sharing has a basis in key texts⁶ in the law relating to refugees and asylum-seekers, going back many years. The preamble to the Convention relating to the Status of Refugees notes that the granting of asylum may place an unduly heavy burden on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international cooperation. According to article 2.2 of the Declaration on Territorial Asylum, where a State finds difficulty in granting or continuing to grant asylum, States individually or jointly or through the United Nations should consider, in a spirit of international solidarity, appropriate measures to lighten the burden on that State. At the regional level, the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa enshrines the principle of solidarity.

G. Sustainable development and common responsibilities

23. Sustainable development is today universally recognized as a goal of the global community and as a principle of international law. Its basic concept, and the body of laws, policies and values which it encompasses, offer far reaching possibilities for the development of obligations in international solidarity. The idea of shared responsibilities here goes a step further, recognizing the principle of common but differentiated responsibilities, embodied in international legal instruments accommodating global inequalities and the need to deal with them equitably. Obligations to cooperate apply to States and all other actors. Principle 3 of the New Delhi Declaration of Principles of International Law relating to Sustainable Development adopted by the International Law Association on 6 April 2002 provides that "States and other relevant actors have common but differentiated responsibilities; all States have a duty to cooperate in the achievement of global sustainable development and the protection of the environment. International organizations, corporations (including in particular transnational corporations), non-governmental organizations and civil society should cooperate in and contribute to this global partnership (resolution 2002/3). Principle 5 of the Johannesburg Declaration on Sustainable Development of the World Summit on Sustainable Development calls for collective responsibility to advance sustainable development - economic development, social development and environmental protection - and focuses on implementation, as presented in its plan of implementation.

⁶ See J. Fitzpatrick, "Temporary protection of refugees: elements of a formalized regime", 94' *American Journal of International Law*, 2000.

H. Global public values

24. Since the earliest forms of labour regulation, and in the evolving sphere of corporate governance, corporate codes, initiatives by non-governmental organizations and intergovernmental guidelines have proliferated, often recognizing concerns of justice, equity and solidarity. In his recent report (A/HRC/11/13), the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises observed that the same types of governance gaps and failures that produced the current economic crisis also constituted the permissive environment for corporate wrongdoing in relation to human rights, necessitating similar responses for both the crisis and corporate wrongdoing. Governments should adopt policies that induce greater corporate social responsibility, and companies should adopt strategies reflecting the inescapable fact that their own long-term prospects are tightly coupled with the well-being of society as a whole. He concluded that strengthening the international human rights regime against corporate-related abuse would contribute to, and gain from, the universally desired transition towards a more inclusive and sustainable world economy.

25. The United Nations Millennium Declaration considered the fundamental interlinked values of freedom, equality, solidarity, tolerance, respect for nature and shared responsibility to be essential to international relations in the twenty-first century. Solidarity can be regarded as an essential component of fairness, justice, equity and equality.

III. INTERNATIONAL SOLIDARITY AND ERADICATION OF POVERTY

A. Solidarity as a response to poverty

26. Poverty is the root cause of many of the world's problems. In the face of multiple crises and some of the more adverse effects of globalization, a fundamental change in approach and the infusion of values of fraternity, humanism and solidarity are needed more than ever. At its outset, the Universal Declaration of Human Rights states that it is a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society should strive to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.

27. Collectively, the Millennium Declaration and the Millennium Development Goals, the Doha Ministerial Declaration of 2001, the International Conference on Financing for Development and the World Summit on Sustainable Development are considered to represent a global compact for poverty reduction, building on the shared responsibilities of the international community.⁷ Respondents to the questionnaire emphasized that solidarity should be a key principle of national efforts to combat poverty. It has become an indispensable component in efforts to eradicate global poverty, because poverty affects the enjoyment of basic human rights. Solidarity and cooperation are vital to combating hunger and avoidable child deaths.

⁷ E/CN.4/Sub.2/2004/15, para. 3.1.

28. In his above-mentioned working paper (E/CN.4/Sub.2/2004/43) Mr. Dos Santos Alves stated that the need for increasing affirmation of international solidarity arose from the iniquity characterizing international relations, deriving from a certain historical context in which peoples and countries were deprived of the right to development. It was also the result of factors and circumstances that prevented the gap between living conditions in developing countries and those in developed ones from being narrowed. Those factors included policies on subsidies, imposed conditionalities, structural adjustment policies developed by the international financial institutions and policies of domination.

B. Questionnaire responses

29. In the view of some respondents to the questionnaire, international solidarity is an indispensable component of the efforts of developing countries to realize the right to development and the promotion of the full enjoyment of economic, social and cultural rights by their people. The Vienna Declaration and Programme of Action identified increased and sustained efforts of international cooperation and solidarity as necessary for the achievement of substantial progress in human rights. Implementing solidarity would be enhanced by focusing on different sectors. Prioritizing the implementation of existing legal instruments, debt relief and the transfer of technology would improve the protection of human rights. According to several respondents, international solidarity should be the basic principle inspiring relations among developed and developing countries. This view reflects the need felt in the current international context, namely, to ensure that civil society actors should be leading players in development processes, starting from the definition of objectives at the national and international levels. It also provides qualitatively important elements for a defining feature of cooperation for development: the idea of partnership. Creating a partnership for development is, *inter alia*, one of the objectives for reducing poverty in the Millennium Declaration.

C. Globalization, international relations and, inter- and intra-generational equity

30. The interdependence of nations and peoples should be recognized, because economic globalization, primarily through international trade and investment, while promoting interdependence and its positive effects, can also have the opposite effects of disconnection and exclusion, especially for people surviving on the edge of existence. In a world that bears witness to the simultaneous processes of globalization and fragmentation, cooperation for our common future⁸ is a *sine qua non*, and require at the same time, a new approach to international relations.⁹ It requires an ideology based on compromise, globalism and sharing, common interests and

⁸ In its report "Our common future" (Oxford University Press, New York, 1987), the World Commission on Environment and Development identified poverty as the most basic challenge facing the environment, development and the achievement of sustainable development.

⁹ K. Hossain, "Sustainable development: a normative framework for evolving a more just and humane international economic order?", in S. R. Chowdhury, E. Denters, P. de Waart (eds.), *The Right to Development in International Law*, Martinus Nijhoff, Dordrecht, 1992.

long-term perspectives.¹⁰ Principle 5 of the Rio Declaration on Environment and Development mandates all States and all people to cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

31. According to principle 27 of the Rio Declaration, States and people should cooperate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in the Declaration and in the further development of international law in the field of sustainable development. The right to development and inter- and intra-generational equity are core elements of sustainable development. Sustainable development principles, also enshrined in treaties such as the Convention on Biological Diversity and the United Nations Framework Convention on Climate Change, integrate notions of fairness and equity. They imply obligations to all those within a generation, and also to those yet unborn, encompassing the idea of solidarity with humanity and its ecological habitat. According to principle 3 of the Rio Declaration, the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

D. Implementation of the right to development, the Millennium Development Goals and a global partnership for development

32. It has been stated that the ongoing efforts made for the right to development, especially by the open-ended Working Group on the Right to Development and the high-level task force on the implementation of the right to development, contribute to ensure that the Millennium Development Goals are achieved, and that the challenge for the international community is to mobilize political will and financial support, reorient trade and development priorities, build capacity and integrate partners of civil society.¹¹ Both the attainment of the Millennium Development Goals and the realization of the right to development, essential to the eradication of poverty, require international solidarity and cooperation, especially as envisaged in Millennium Development Goal 8 on the global partnership for development.

33. The Millennium Development Goals, and the legal and policy measures taken to reach them are part of the substance of emerging legal norms related to third-party responsibility and the international duty to cooperate. This is especially so in the case of Goal 8, which seeks to promote an international partnership for development in areas, such as access to affordable medicines and technologies and cooperation to increase development assistance and to cancel the

¹⁰ I. M. Porras, "The Rio Declaration: a new basis for international cooperation", in P. Sands, *Greening International Law*, Earthscan, London, 1993.

¹¹ "The future of the right to development will largely depend on the degree to which governments are willing to address the practical obstacles of the implementation of the Millennium Development Goals. A successful attainment of the Millennium Development Goals will contribute to the process of implementation of the right to development - and vice-versa." S. von Schorlemer, "The right to development and the UN development goals: critical perspectives", in C. R. Kumar and D. K. Srivastava, *Human Rights and Development: Law, Policy and Governance*, City University of Hong Kong, 2006.

debt burden of poor countries.¹² The reiteration of commitments to achieve the Millennium Development Goals in several international instruments and the practice consistent with these commitments provide a rational basis for the recognition of a principle of international solidarity, which will at some point provide a strong argument that such an obligation has crystallized into customary international law. In this sphere, international solidarity could eventually go well beyond the scope of general principles of international law to that of international custom.

34. One major result of the action conducted by developing countries for development can be seen in the fact that this issue has become a central one for the international community.¹³ Although declarations and other instruments in the sphere of development, including General Assembly resolutions, are not always adopted by consensus, they must be accorded due value in that they can inform the creation of international legal principles, as they represent consensual opinion of a large majority of States.

IV. INTERNATIONAL SOLIDARITY AND COOPERATION IN NATURAL DISASTERS AND COMBATING DISEASES

A. Natural disasters

35. International law recognizes responsibility to disaster victims, although this recognition is not yet legally binding. Humanitarian principles applicable to disaster situations are one area for development in which ideological and political differences at the global level could most likely be reconciled.¹⁴ With regard to natural disasters, the Committee on Economic, Social and Cultural Rights has expressed the view that States and international organizations have a joint and individual responsibility to cooperate in providing disaster relief and humanitarian assistance in times of emergency.¹⁵ In disaster relief and emergency assistance, priority is to be given to Covenant rights.¹⁶

36. While the affected State has primary responsibility for the efforts made to deal with natural disasters within its territory, the role played by international cooperation is very significant. International cooperation in natural disasters encompasses measures of prevention, preparedness, mitigation and recovery and reconstruction, including strengthening the response capacity of affected countries (General Assembly resolution 59/212). International cooperation should also be strengthened in support of the efforts made by affected States in dealing with natural disasters

¹² C.T. Holder, "Note: a feminist human rights approach for engendering the Millennium Development Goals", 14 *Cardozo Journal of Law & Gender*, 2007.

¹³ A. Cassese, *International Law*, Oxford University Press, Oxford, 2005.

¹⁴ See Z. Coursen-Neff, "Preventive measures pertaining to unconventional threats to the peace, such as natural and humanitarian disasters", 30, *New York University Journal of International Law and Policy*, 1998.

¹⁵ See E/C.12/2000/4, para. 40 and E/C.12/1999/5, para. 38.

¹⁶ E/C.12/2000/11, para. 34.

at all stages. International cooperation should also improve national and local capacities, including in search and rescue, and where appropriate, improve regional and subregional capacities of developing countries for disaster preparedness and response, which may be provided in closer proximity to the site of a disaster, more efficiently and at a lower cost.

37. In response to the questionnaire, the point of view was expressed that the development of international law would recognize people as subjects of the law, with a clear-cut role for the people in global responses to disasters. A common guideline could, for example, be developed for people to help others across borders in times of disasters, whether natural or man-made, in the spirit of universal brotherhood. Over time, this dual approach of people and States helping each other would strengthen the principle of international solidarity.

B. Combating diseases

38. By recognizing the interdependence of individual and collective human rights, it becomes apparent that there need not always be a trade-off between advancing individual human rights and promoting public health. In a globalized world, the collective enjoyment of public health is a precondition for the individual human right to health, with public health systems addressing the collective determinants of health outside the control of the individual. Through a right to public health, the discourse of collective rights can be used to supplement individual rights in affirming the inherent equality and solidarity of all people.¹⁷ In the face of the HIV/AIDS pandemic, the right to health is leading to a broad movement of international solidarity, which requires that it be given primacy over, for instance, intellectual property rights.

39. The revised International Health Regulations, adopted by the World Health Organization (WHO) on 23 May 2005, demonstrate a greater willingness of Member States and the organization to assert WHO authority not only in coping with emergent, serious communicable disease threats and outbreaks, but also in establishing a firmer international legal basis for international scientific cooperation to that end. Since the Regulations are international legally-binding instruments, the States parties to them are under an international obligation of scientific cooperation; scientific cooperation to limit the spread of major diseases is therefore obligatory. The Secretary-General reiterated his call for international unity in relation to the influenza A (H1N1) outbreak worldwide, stating that this required the cooperation of the whole international community, its leadership and commitment. The outbreak is a major test of how well WHO and its States members apply the International Health Regulations of 2005 to a dangerous outbreak. The declaration of level 6 in a 6-point scale is a signal to Governments, ministries of health and other ministries, the pharmaceutical and business communities that certain actions should be taken with extreme urgency. Speaking to the World Health Assembly on 18 May, the Director-General of WHO emphasized the need for equity and solidarity in the response to global public health challenges.

¹⁷ See B.M. Meier, "Employing health rights for global justice: the promise of public health in response to the insalubrious ramifications of globalization", 39, *Cornell International Law Journal*, 2006.

V. CONCLUDING REMARKS

40. In the current state of the world, troubled by turbulence in all its forms, international solidarity is a supreme precondition to human dignity, which is the basis of all human rights, human security and survival for our common future. International cooperation, the core of international solidarity, is well established in international law. Towards the recognition of a right of peoples and individuals to international solidarity, there is fertile terrain to be explored further, exemplified by a plurality of laws and processes, public policies and multilateral and bilateral arrangements that can be purposively interpreted in the light of justice, equity and sustainable development.

41. Having explored the legal ground, the independent expert concludes that there is ample and unequivocal evidence of the existence of a principle of international solidarity. A survey of the field of international solidarity shows the existence of numerous global public values, policies, concepts and norms in various international instruments of law and policy, mostly in the realm of soft law, *lex ferenda* or international public policy, where law, ethics, ideals, morals and politics meet. This constitutes a body of values and laws that can support the construction of a normative framework for human rights and international solidarity, and the concomitant emergence of a right of peoples and individuals to international solidarity, based on the underlying principle of consensus, which guides the making of international law. To a lesser extent, there is also a substantially harder body of law with binding obligations of international solidarity and cooperation. To support both soft and hard laws, there is a formidable body of State and non-State practice in acting upon such obligations. Gaps need to be bridged between soft and hard law, values and norms, through a diversity and plurality of legal processes and broader approaches to interpretation, recognizing that global governance depends on a number of stakeholders who all contribute to the making of international law and policy.

42. The typology of obligations to respect, protect and fulfil is a useful framework to interpret provisions on international cooperation and solidarity. International cooperation and solidarity are based on the concept of shared responsibility. The notion of common but differentiated responsibilities has potential value in the development of a right of peoples and individuals to solidarity. It may be argued that obligations based on international solidarity, where they concern the most fundamental human rights, can go beyond the limits of State borders, as they are owed *erga omnes* rather than *inter partes*.
