



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/41
23 December 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Analytical study of the High Commissioner for Human Rights on the fundamental
principle of participation and its application in the context of globalization**

Report of the High Commissioner*

* The endnotes are being circulated as received, in the language of submission only.

Summary

The present report, submitted pursuant to Commission on Human Rights resolution 2004/24, considers the relevance to globalization of the enjoyment of the right to take part in the conduct of public affairs and related rights and suggests ways in which that right can be promoted within the context of globalization. After outlining the legal basis of participation in the principal human rights treaties, the report considers its enjoyment in the processes of globalization in three areas. First, the report considers the promotion of participatory rights in national-level policy-making as it relates to globalization. Second, the report considers the capacity of States to respect the will of the people, expressed through the enjoyment of participatory rights, in decision-making processes in global institutions. Third, it examines the increasing role of individuals and groups - through civil society organizations - to take part in policy discussion and decision-making at the global level. Finally, the report makes some proposals in relation to: understanding the international dimensions of the right to take part in the conduct of public affairs; undertaking human rights impact assessments of global rules, policies and projects; strengthening the role of parliaments in global governance; clarifying the human rights responsibilities of non-State actors; increasing the voice of civil society in institutions related to globalization; and possible further study on methodologies for undertaking human rights impact assessments.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 2	4
I. HUMAN RIGHTS AND PARTICIPATION	3 - 18	4
A. Participation and globalization	3 - 5	4
B. Participation in human rights law	6 - 18	5
II. PARTICIPATORY RIGHTS AND GLOBALIZATION	19 - 46	8
A. Introduction	19 - 20	8
B. Participation at the national level	21 - 31	9
C. Participation of States at the global level	32 - 38	13
D. Participation of individuals and groups at the global level	39 - 46	15
III. CONCLUSIONS AND RECOMMENDATIONS	47 - 54	17

Introduction

1. In its resolution 2004/24, the Commission on Human Rights requested the High Commissioner, “in cooperation with the United Nations Conference on Trade and Development, the World Trade Organization and other relevant international financial and economic institutions, to study and clarify the fundamental principle of participation and its application at the global level with a view to recommending measures for its integration and effective implementation in the debate on the process of globalization and to submit a comprehensive analytical study on the subject to the Commission at its sixty-first session”. The present document is submitted in accordance with that request.

2. In response to the resolution, the Acting High Commissioner wrote to the Secretary-General of UNCTAD and the Director-General of WTO on 21 June 2004 as a first step in the process of cooperation. Subsequently, the Office of the High Commissioner consulted with UNCTAD, WTO and the International Labour Organization (ILO), and the report draws on materials and reports from these and other organizations. A draft of the report was shared with representatives of WTO, UNCTAD, ILO and the World Bank prior to submission.

I. HUMAN RIGHTS AND PARTICIPATION

A. Participation and globalization

3. The participation of individuals and groups in decisions driving globalization is attracting ever-increasing attention. The processes of globalization, particularly improvements in information and communication technology and quicker and cheaper travel, have broadened opportunities for individuals and groups to take part in decision-making processes at the global level. Further, more and more decisions affecting people locally are taken in global forums. Yet individuals and groups are increasingly feeling excluded from decision-making processes as representative democracy remains essentially national and local.¹ The *Human Development Report 2002: Deepening Democracy in a Fragmented World* notes that the protests and frustration expressed over globalization have highlighted concerns that marginalized people and the less powerful are losing out in the management of global security and economic affairs, throwing the spotlight on global institutions and decision-making.²

4. The present report seeks to analyse participation in the era of globalization from the perspective of international human rights law. This approach highlights two main issues. First, approaching participation and globalization from a human rights perspective considers the involvement of people in the decisions that influence globalization. This concerns the participation of people as claim holders - particularly the poor and marginalized - in national policy-setting relating to globalization - for example, trade policy, macroeconomic policy and so on - as well as the participation of individuals and groups through civil society organizations in global decision-making. The second relates to the capacity of States - as the primary duty bearers of human rights - to ensure a voice for people in the institutions and decision-making processes driving globalization. Poorer countries in particular face hurdles in this area, a fact recognized recently at UNCTAD XI, where the international community clearly agreed: “There is a need to broaden and strengthen the participation of developing countries and countries with economies in transition in international economic decision-making and norm-setting.”³

5. Before considering more closely the application of a human rights approach to participation and globalization, the rest of this section sets out the human rights dimensions of participation by reference to international human rights treaties.

B. Participation in human rights law

6. International human rights treaties express participation in human rights terms through the recognition of political rights. This report will refer to these rights as “participatory rights”. Article 21 of the Universal Declaration of Human Rights⁴ recognizes participatory rights as does article 25 of the International Covenant on Civil and Political Rights (ICCPR), which states:

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.”

7. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) also recognizes participatory rights in the context of combating discrimination against women. Importantly, article 7 of CEDAW establishes that States shall take appropriate measures to eliminate discrimination against women in political and public life by ensuring the right to vote, the right to participate in the formulation of government policy and its implementation, the right to hold public office and the right to participate in non-governmental organizations and associations concerned with public and political life. Article 14 (2) of CEDAW further recognizes the importance of participation in the specific area of rural development planning, requiring States parties to eliminate discrimination against women in rural areas by ensuring to women the right to participate in the elaboration and implementation of development planning at all levels. In the area of racial discrimination, article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibits racial discrimination in connection with participation in political and public life.⁵

8. Human rights law also recognizes the international dimensions of participation. While ICCPR does not expressly refer to international dimensions of participatory rights, the Human Rights Committee has interpreted the right to take part in the conduct of public affairs broadly, noting that the conduct of public affairs covers “all aspects of public administration, and the formulation and implementation of policy at the international, national, regional and local levels”.⁶ CEDAW goes further and refers expressly to international dimensions of women’s participation. Article 8 provides that “States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations”. The Committee on the Elimination of Discrimination against Women (the

CEDAW Committee) has stated that this requires women to be included in economic and military matters, in both multilateral and bilateral diplomacy, and in official delegations to international and regional conferences.⁷ Of particular relevance to participation and globalization, the CEDAW Committee has stressed that “the globalization of the contemporary world makes the inclusion of women and their participation in international organizations, on equal terms with men, increasingly important”, yet the CEDAW Committee notes that many crucial questions on global issues are taken with limited participation of women.⁸

9. In keeping with the principle of the interdependence of human rights, certain other rights recognized in international treaties can be considered essential prerequisites to the enjoyment of participatory rights. These rights and freedoms include the freedom of expression, the freedom of assembly, the freedom of association, the freedom of movement and the right to seek, receive and impart information.⁹ Respect for these rights is crucial to effective participation, particularly in the era of globalization which has created significant opportunities (as well as challenges) to promote these rights due to advances in information and communication technologies and quicker and cheaper transport.

10. Certain economic, social and cultural rights, particularly the right to education, are also relevant to the enjoyment of participatory rights. The Committee on Economic, Social and Cultural Rights has indicated that the right to education, as an “empowerment right”, is the primary vehicle by which the marginalized “can lift themselves out of poverty and obtain the means to participate fully in their communities”.¹⁰ Similarly, the right of everyone to an effective remedy is a prerequisite for the enjoyment of participatory rights as a means to avoid violations and ensure accountability through judicial and quasi-judicial processes.

11. It is also relevant to highlight that human rights law considers participation in relation to specific contexts. For example, several treaties recognize rights in relation to cultural participation. Article 13 (c) of CEDAW refers to “the right to participate in ... all aspects of cultural life”. Article 5 (e) (vi) of ICERD extends the prohibition of racial discrimination to the right to equal participation in cultural activities and article 15 (1) (a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right of everyone to take part in cultural life. Human rights instruments also apply participatory rights to development. As noted above, article 14 (2) of CEDAW recognizes the right of women to participate in the elaboration and implementation of rural development planning. Similarly, article 1 of the Declaration on the Right to Development recognizes the right to development as “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized”. Finally, article 12 of the Convention on the Rights of the Child contains the right to be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body.

12. In addition to the human rights conventions adopted by the United Nations, the ILO has also adopted many human rights instruments that contemplate participation as a fundamental right. The ILO’s tripartite basis incorporates workers’ and employers’ organizations - vitally important parts of civil society in most countries - directly in the ILO deliberative processes. Several of the ILO fundamental human rights conventions, and a large number of more technical instruments, contemplate workers’ and employers’ participation directly in their implementation.

A special convention - the Tripartite Consultations (International Labour Standards) Convention, 1976 (No. 144) - was adopted to regulate this process and make it more uniform. The fundamental conventions on freedom of association and collective bargaining - referred to explicitly in both Covenants - give a more precise content to freedom of association in the economic sphere. In addition, the ILO Constitution and supervisory procedures give national and international workers' and employers' organizations a right to take a direct part in the supervisory process, and to file complaints of violations of ratified conventions and on the basic principles of freedom of association and collective bargaining.

13. Some of the main characteristics of participatory rights are described below.

14. First, participatory rights go beyond merely representative democracy and promote participation in "public affairs" and "political and public life" in various forms. For instance, the Human Rights Committee has interpreted the concept of "public affairs" broadly to include not only participation of citizens directly in the conduct of public affairs as members of legislative bodies or by holding executive office, but also participation through electoral processes and referendums, participation in popular assemblies that have the power to make decisions about local or community affairs, participation in bodies established to represent citizens in consultation with Government and the exertion of influence on decision-making through public debate and dialogue.¹¹ The text of CEDAW appears to coincide with this interpretation of public affairs through its reference to the right to participate in the formulation of government policy and its implementation and the reiteration of this right in the specific context of rural development planning. In interpreting this right, the CEDAW Committee has focused principally on the specific question of the appointment of women to senior decision-making roles, although the Committee has also highlighted the need to consult with and incorporate the advice of groups that are broadly representative of women's views and interests.¹²

15. Second, as with all rights, political participatory rights must be enjoyed without discrimination. Thus, article 25 of ICCPR expressly refers to the prohibition on discrimination included in article 2 of the Covenant, thus prohibiting distinctions in relation to the enjoyment of political participatory rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

16. Third, participatory rights carry both positive and negative obligations on States to ensure their full realization. Thus, not only should States parties respect participatory rights, they should also take effective measures to reduce obstacles to and facilitate the enjoyment of these rights. For example, voter education and registration campaigns are necessary to ensure the effective exercise of participatory rights.¹³ Similarly, States should take measures to ensure that barriers to participation, such as illiteracy, language barriers, poverty, and impediments to freedom of movement, are overcome.¹⁴ Moreover, States might also have to undertake special temporary measures at times in order to eliminate the underlying structural biases in society that produce discrimination and block effective participation. Thus, the CEDAW Committee has identified a wide range of special temporary measures such as recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary and other professional groups.¹⁵

17. Fourth, participatory rights may be subject to limitations. The Human Rights Committee has stated that any conditions applying to participatory rights should be based on *objective* and *reasonable* criteria (emphasis added).¹⁶ In this regard, discriminatory criteria for restricting the enjoyment of participatory rights - for example, on the basis of race or disability - would be unreasonable given the fundamental nature of the principle of non-discrimination generally and its express reiteration in article 25 of ICCPR and article 7 of CEDAW. Similarly, residence requirements applying to registration to vote must be reasonable.¹⁷ At the same time, if a conviction for an offence is the basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence.¹⁸ However, in *Mikmaq Tribal Society v. Canada*, the refusal of the Government of Canada to allow the Mikmaq to be represented at a special constitutional conference convened on indigenous peoples' rights was not deemed an "unreasonable restriction" on the right to take part in the conduct of public affairs. The Human Rights Committee noted that the right did not mean that every citizen may determine whether to take part directly in the conduct of public affairs or to leave it to directly chosen representatives. It considered that the constitutional system of the State party could provide for the modalities of participation.¹⁹

18. In the context of globalization, it would appear that the drafters of CEDAW and treaty monitoring bodies such as the Human Rights Committee envisage that participatory rights have an international dimension, although the exact application of participatory rights is not specified in detail. The fact that CEDAW explicitly recognizes the need to promote the participation of women in international policy-making and in international institutions indicates that the drafters of the treaty intended that participation at the international level should not discriminate against women. Similarly, the broad interpretation by treaty bodies of the terms "public affairs" and "public and political life" as including international policy-making complements this explicit recognition of the international dimensions of participation in CEDAW. Thus, participatory rights are relevant to international decision-making - and to globalization to the extent it is driven by decisions at the international level. Not only is this in keeping with the underpinnings of the international human rights system to achieve international cooperation and an international and social order conducive to the enjoyment of human rights,²⁰ but respect for participatory rights internationally also holds the potential for promoting a more democratic, inclusive and therefore sustainable globalization based on consensus and good national and global governance.

II. PARTICIPATORY RIGHTS AND GLOBALIZATION

A. Introduction

19. In considering participatory rights in the context of globalization, the present report relies on the definition of globalization contained in the preliminary report of the Secretary-General on globalization and its impact on the full enjoyment of human rights (A/55/342, para. 5). That report assumed that globalization is multidimensional and that it can be broken down into numerous complex and interrelated processes that have a dynamism of their own. The report further stated that the present era of globalization has certain distinctive features, including advances in new technology, particularly information and communications technology, cheaper and quicker transport, more rapid trade liberalization, increases in financial flows and the growth in the size and power of corporations. Further, the report noted that, while various national, regional and international rules and policies drive many of the processes of globalization, the

rules and policies established within WTO, the World Bank and the International Monetary Fund (IMF) have a particularly strong influence in shaping the workings of the global economy (ibid., para. 10). In light of this definition, the present report focuses more closely on decision-making processes in WTO, the World Bank and IMF, although the issues raised are often relevant to decision-making within the United Nations itself, or other international settings.

20. The present report examines respect for participatory rights in the context of globalization at three levels. The first level is the respect for participatory rights nationally, acknowledging the fact that many policy positions and priorities are set domestically and implementation of global rules and policies also occurs nationally. Nonetheless, States - as the primary duty bearers of human rights - must have the capacity to defend national policies, determined through democratic processes, in global institutions. Consequently, the second level of participation concerns the participation of States at the global level. The third level concerns the direct participation of individuals and groups at the international level in global institutions. Although States ultimately set rules and policies in global forums, individuals and groups, through civil society organizations, are increasing their own capacity to influence decisions.

B. Participation at the national level

21. A key challenge posed to the enjoyment of participatory rights is how to involve individuals and groups in the formulation, implementation and monitoring of the rules and policies that drive globalization but which affect people locally. People, particularly the poor and marginalized, often do not have a chance to participate in policy-setting or development projects. For example, indigenous peoples have been excluded by developers on the potential effects of extractive industry projects²¹ and policy makers have often overlooked the different impacts of trade policy on women and the poor.²² Yet decisions taken on policies and projects at the national level continue to be key factors in determining the impact of globalization on people. In this light, the ILO's World Commission on the Social Dimension of Globalization has highlighted the need to create better and fairer global rules, policies and institutions. This, the World Commission indicated, requires substantial improvements in the governance of globalization, but it emphasized that such improvements "must start at home", namely at the national level.²³ According to the World Commission report, this reflects the fact that national decisions remain fundamental (irrespective of the level or stage of development) in determining whether domestic conditions are set to maximize the benefits of globalization while minimizing its risks. But in an increasingly interdependent world, it equally reflects the need for careful consideration of the consequences of national actions and policies on the rest of the world (including national positions taken in international forums and bilateral negotiations), especially on poorer countries and people.²⁴

22. The promotion of participatory rights in policy formulation, implementation and monitoring is attracting increasing interest among global institutions, aid agencies and civil society organizations.²⁵ For example, the World Bank/IMF poverty reduction strategy papers (PRSPs) have provided a means of promoting participation in the context of determining concessional lending and debt relief - an important vehicle to removing obstacles to the enjoyment of the benefits offered by globalization. Developed initially under the World Bank/IMF enhanced Heavily Indebted Poor Countries (HIPC) initiative, PRSPs describe a country's macroeconomic, structural and social policies and programmes to promote growth

and reduce poverty as the basis for World Bank/IMF concessional lending and debt relief. Along with national ownership and other core principles, the PRSP approach promotes broad-based participation of civil society and others in all operational steps in the development of the strategy.²⁶ Once the country in question has undertaken the participatory assessment and drafted the PRSP, it presents the paper to the World Bank/IMF Boards for consideration and endorsement (if it is to receive financial assistance from either institution). Designed originally in the context of the enhanced HIPC initiative, the approach has now broadened and non-HIPC countries are also adopting PRSPs.

23. It is relevant to note, however, that the concept of participation might not always be successfully implemented in practice. The *Human Development Report 2002* suggests the ambiguous usage of the term “participation” in the context of PRSPs and highlights the fact that interaction only rarely involves the collaborative planning and decision-making necessary for shared control over decisions and resources.²⁷ OHCHR has emphasized the human rights dimensions of participation in PRSPs through its draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies.²⁸ Nonetheless, even where broad participation of stakeholders has been possible in the poverty consultation, the actual PRSP has not always reflected those findings adequately. UNCTAD has questioned the focus of participation in PRSPs, noting that the international financial institutions continue to exert a major influence on policy design through conditionality, and has suggested that the emphasis on ownership and participation might have the objective of mobilizing greater popular and political support for conventional adjustment and stabilization policies, rather than giving recipient countries greater autonomy in designing their stabilization policies and development strategies. This has led to calls for greater streamlining of conditionalities so that people and Governments can participate more meaningfully in the definition of alternative paths to poverty reduction and growth.²⁹

24. Another means of improving participation in the context of globalization is through human rights impact assessments of policies - such as trade, investment, economic or financial policies - or global development projects - whether public or private sector projects. Assessments can take the form of *ex ante* assessments - assessments taken prior to, during or at the end of a round of trade negotiations, or at the policy or development planning stage - or, alternatively, they can be *ex post* assessments - assessments undertaken after a period of implementation. Human rights impact assessments form a part of the wider discussion on human rights approaches to development which promote the use of human rights standards contained in, and principles derived from, the Universal Declaration of Human Rights and other international human rights instruments as a guide to all development cooperation and programming in all sectors and in all phases of the programming process.

25. International institutions, donor countries and civil society organizations have developed a range of methodologies in the context of the assessment of global development planning. The World Bank, for example, has developed a range of participatory methodologies for the assessments of development projects.³⁰ Similarly, some development agencies have established human rights assessment methodologies to assess and monitor development projects.³¹

26. However, less progress has been made in the area of participatory assessments of *policies* (as opposed to *projects*) - such as trade, investment, economic or financial policies. For example, in the case of trade negotiations, while some Governments do seek broader civil

society participation in the development of trade policies,³² there is not yet any consistent approach or methodology. The High Commissioner has, on several occasions, encouraged States to undertake human rights impact assessments (HRIAs) of trade-related rules and policies systematically (see E/CN.4/2004/40, paragraph 55). HRIAs would require not only participatory methodologies - to ensure assessment quality as well as to implement the right to participate - but also comparing the real and potential impact of trade policies against a range of comprehensive indicators based on internationally recognized civil, cultural, economic, political and social rights. Significantly, the principle of non-discrimination as a core human rights principle promotes the disaggregation of impacts between men and women, different national, ethnic and racial groups and so on, promoting participation of a broader range of views and experiences within any assessment.

27. HRIAs also incorporate the principle of accountability. This is particularly relevant in the context of policies concerning globalization. The ILO World Commission has noted the low democratic accountability in the process of globalization with national parliaments rarely scrutinizing the positions taken by Governments in international forums and with few, if any, procedures of redress for people who are adversely affected by the policies of global organizations.³³ HRIAs might therefore provide a means to provide greater democratic accountability in the context of policy formulation. The Commission might wish to consider the development of methodologies to assist States in undertaking human rights impact assessments of trade policies.

28. As part of its follow-up to the recommendation of the World Commission, the ILO has been working with a number of member States to develop methods for assessing the social and labour impacts of globalization (and its component policies) on those States, both *ex post* and *ex ante*. This involves establishing cause-effect relationships, the selection of a set of decent work indicators, data collection and interpretation for the tracking, as well as the prognosis of impacts. The indicators are intended to trace, inter alia, effects on the volume and quality of employment, social security, incomes and poverty, child labour, social dialogue and gender biases. These data provide the basis for national assessments of the impacts of globalization. Some countries are planning to generate such assessments on a regular basis. The factual and widely shared information contained in the national assessments lays a basis for participation concerning conclusions for policy.³⁴

29. Strengthening accountability mechanisms at the national level is also important in promoting greater respect for participatory rights in policy-making. Ensuring the justiciability of all rights - civil, cultural, economic, political and social - is a step in providing means of redress to individuals whose rights are not taken into account in decision-making processes. Strengthening redress mechanisms provides a possible avenue for strengthening participation by empowering individuals to claim rights, which can also be significant in avoiding problems arising in the future. The effects that globalization has on economic and social policies highlights the relevance of focusing on strengthening the legal enforceability of economic, social and cultural rights and providing appropriate means of redress in the case of clear violations. Strengthening the role of parliaments might provide another means to improve respect for participatory rights in the context of globalization. Parliaments provide the primary mechanism for accountability at the national level. Parliaments therefore provide a means to ensure that Governments' decisions at the international level take into account the results of human rights

impact assessments and the needs of the most vulnerable. The ILO World Commission report identifies two possible ways to strengthen the role of parliaments in global governance. First, parliaments, through parliamentary committees, can strengthen their role and capacity to provide checks and balances on government actions at the international level. Second, parliaments, through global parliamentary networks such as the Inter-Parliamentary Union (IPU) can help to ensure coherence and consistency between global economic and social policies.³⁵

30. Certain existing review mechanisms at the global level could also provide a means to increase the involvement of individuals and groups in the monitoring of the rules and policies that drive globalization. The World Bank has developed some accountability mechanisms such as the Inspection Panel - to investigate complaints from groups of affected people in relation to World Bank loans - and a Compliance Adviser/Ombudsman's Office - to find constructive and workable approaches to dealing with environmental and social concerns and complaints of people directly affected by projects financed by the International Finance Corporation/Multilateral Investment Guarantee Agency.³⁶ The WTO trade policy review mechanism (TPRM) also provides a means to review trade policy decision-making which could be used to promote participatory rights in the context of global trade reform, although this has not been the case so far. Through TPRM, WTO members undertake periodic peer reviews of individual member's trade policies. The Trade Policy Review Body - a body made up of WTO members - conducts a review of national policies on the basis of a report prepared by the Government under review and one by the WTO secretariat. While the mandate does specify that the review should take place against the background of the wider economic and developmental needs, policies and objectives of the WTO member, there is no requirement that the review should rely on the participation of stakeholders such as individuals and groups. Individual Governments could nonetheless consider increasing participation in the preparation of their report as a means of ensuring broader enjoyment of participatory rights in global policy-setting and decision-making.

31. PRSPs, human rights impact assessments, and the monitoring of policy and decision-making processes all provide some means of promoting participatory rights in the context of globalization. Nonetheless, it is important to acknowledge that there are limitations. Importantly, the time needed to ensure effective participation - whether in relation to PRSPs or other assessments - must always compete with objectives of promoting - as rapidly as possible - poverty reduction, debt relief and economic growth. Participation for its own sake that ends up obstructing the enjoyment of other human rights would of course be self-defeating. As noted in the previous section, participation may be subject to reasonable and objective limitations - restrictions on participatory rights must be evaluated on a case-by-case basis drawing on the principle of proportionality and taking into account the overall situation of the State concerned.³⁷ Further, countries with low levels of education or poorly organized civil society have difficulties in organizing effective participatory discussions on trade, investment and macroeconomic policies, which are characterized by their complexity. Indeed, while there are exceptions,³⁸ participation in global policy-setting is generally not standard practice, even in countries with well-developed democratic institutions, highlighting the difficulties that poorer countries with lower technical capacities face in this area. Nonetheless, in spite of such shortcomings, when undertaken in an environment of trust, participatory assessments can present opportunities for more open dialogue and greater understanding between those in power and the poor.³⁹

C. Participation of States at the global level

32. While effective participation in poverty- and trade-related decision-making at the national level provides a means of strengthening participatory rights in the context of globalization, States - as the primary duty bearers of human rights - must still have the capacity to defend participatory rights at the global level. Yet current structures of global governance are not always optimal for ensuring this capacity, particularly in the poorest countries. Four main issues arise in relation to the governance of global institutions that could affect the capacity of poorer States as duty bearers of participatory and other human rights. First, both UNDP and the ILO World Commission have noted that poorer countries, while deeply affected by decisions taken in the IMF and the World Bank, have less political power in the decision-making processes of these institutions.⁴⁰ This is, significantly, due to the fact that nearly half the voting power in the World Bank and the IMF rests in the hands of seven countries, exercised in the formal decision-making bodies - the executive boards - of each institution.⁴¹ This imbalance in voting rights is partly due to voting structures developed over 50 years ago to respond to a narrower membership and different developmental and financial concerns. According to UNDP, these structures are inappropriate today.⁴²

33. Second, economic imbalances between members of global institutions can exacerbate political imbalances in decision-making or skew formal political balance where it exists.⁴³ WTO, for example, has a politically balanced decision-making structure based on consensus or, where consensus fails, on a simple majority of one member, one vote. However, according to *Making Global Trade Work for People* published by UNDP, the need for consensus in WTO has increased the number of informal processes for decision-making, with the most powerful trading members organizing informal consultations that have excluded poorer countries. Thus, while formal structures will include poorer countries in the tabling of negotiation proposals and at the end at the formal decision-making stage, those countries have nonetheless been practically excluded from the important intermediate stages of negotiation.⁴⁴

34. Similarly, the ILO World Commission has noted that the underlying inequalities in economic power translate into bargaining strength in negotiations that poor countries are often unable to resist.⁴⁵ In such cases, even where a country might have respected participatory rights at the national level in the development of trade policy, poorer countries might lack sufficient capacity to defend that policy in negotiations. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has underlined economic imbalances with particular reference to countries acceding to membership in WTO. The Special Rapporteur stated his concern that “pressure in trade negotiations, particularly when exercised by stronger trading partners over smaller acceding countries, might lead to unsustainable commitments to trade liberalization that, in practice, diminish States’ capacity to realize the right to health” (E/CN.4/2004/49/Add.1, para. 69).

35. When consulted, the WTO secretariat provided information on steps taken by the WTO General Council to improve transparency and promote the capacity of poorer countries within WTO. Importantly, WTO has promoted the prompt dissemination of information and agreed to procedures that will provide greater clarity and transparency in the process of appointing chairpersons to WTO councils and committees. The General Council also engaged, in 2002, in substantive discussions to explore ways in which the functioning of WTO processes

might be improved, particularly with regard to the preparation and organization of Ministerial Conferences.⁴⁶ In 2004, the Chairperson of the General Council, in close cooperation with the Director-General, conducted intensive rounds of consultations with the widest possible range of membership on key issues such as agriculture, cotton, non-agricultural market access and government procurement as well as other issues, in an attempt to move forward the Doha Round of trade negotiations.⁴⁷

36. Third, the capacity of poorer countries to defend participatory rights can be further reduced where decisions affecting globalization are taken outside the multilateral system. The ILO World Commission report identifies organizations made up of a limited number of wealthy countries such as the Group of Seven (G-7), which have taken important decisions on economic and financial issues with a global impact.⁴⁸ Poorer countries often have reduced impact on decision-making in such organizations.

37. Fourth, a lack of technical capacity can also lessen the capacity of States to defend participatory rights in global institutions.⁴⁹ This lack of technical capacity manifests itself in a variety of forms. For example, *Making Global Trade Work for People* has noted that many poorer countries do not have sufficient representation in Geneva to participate effectively - either due to small numbers of staff or as a result of a lack of diplomatic representation in Geneva.⁵⁰ Similarly, even where poorer countries can attend meetings, overburdened staff can lack the technical complexity necessary for effective representation and to undertake research on policy issues.⁵¹ Nonetheless, organizations have developed areas of technical assistance to help poorer countries develop technical capacity to participate more fully in international forums. In 2003, WTO organized two one-week briefing sessions on WTO work and the status of the negotiations for the 34 WTO members and observers without missions in Geneva. WTO has established two joint training programmes of particular relevance to promoting the capacity of developing countries, namely, the Integrated Framework for Least Developed Countries and the Joint Integrated Technical Assistance Programme to Selected Least Developed and other African Countries.⁵² Similarly, the Advisory Centre on WTO Law, a public international organization independent of WTO, was established in 2001 to provide legal advice on WTO law, support in WTO dispute settlement proceedings and training in WTO law to developing countries and customs territories, countries with economies in transition and least developed countries.⁵³

38. To the extent that these four factors reduce the capacity of States to respect participatory and other rights exercised nationally, such imbalances are of concern to the promotion and protection of human rights. The ILO World Commission noted that financial interests in industrialized countries play a dominant role in the global financial market. The Governments of these countries, especially the strongest, determine the rules governing that market through their influence on international financial institutions - which in turn exercise great leverage over the macroeconomic and financial policies of developing countries. In this context, the World Commission has promoted reform of the international financial architecture.⁵⁴ Similarly, in relation to the multilateral trading system, the 2002 report of the High Commissioner on globalization and its impact on the enjoyment of human rights promoted an approach to trade rules that guarantees “affirmative action” for vulnerable individuals and groups in order to avoid a level trade playing field of unequal players (E/CN.4/2002/54, para. 42). The ILO World Commission has also called for “affirmative action” in favour of countries that are latecomers

and do not have the same capabilities as those that developed earlier. This would promote the formulation of multilateral rules in which the obligations of countries are a function of their level or stage of development.⁵⁵ Such reforms could, inter alia, help to strengthen the capacity of Governments to meet the needs of people, expressed through participatory rights, at the global level.

D. Participation of individuals and groups at the global level

39. The present era of globalization has seen an increase in the participation of individuals and groups - through civil society organizations - at the global level. Importantly, globalization has made participation more viable as new information and communication technology, particularly the Internet, has allowed the world to become more interconnected and people more aware of issues on the global agenda. Increased participation is also due to a realization that Governments alone cannot solve global problems and that, with more decisions being reached in international forums and organizations, it is becoming increasingly important to develop a stronger framework for global governance and democratic accountability to citizens. Civil society, global roles for parliamentarians, public opinion and global media are emerging as pillars (see A/58/817, paragraphs 3, 9). Yet participation has tended to increase around the edges of decision-making and global institutions have been slow to adapt structures in response to calls for more democratic governance. These and other factors are promoting calls for greater space to exercise participatory rights at the global level. Human rights treaties and human rights monitoring bodies have recognized that participatory rights have international dimensions. The rest of this section outlines some issues that could be relevant in clarifying the application of participatory rights at the global level.

40. Participation of individuals and groups - through civil society organizations - at the global level has taken two general forms. First, civil society organizations have been promoting particular issues with decision makers through the use of campaigns and lobbying. Second, and less commonly, civil society groups have been, in limited areas, participating more actively in global decision-making.

41. Several examples illustrate the first form of civil society contribution - participation through lobbying and campaigning. The first example is the Essential Drugs Campaign, established in 1996, which employed national and international networking to promote public health concerns in trade policies. By working with Governments, international negotiators, pharmaceutical companies, regional organizations and the media, the Campaign - directly and through the Internet⁵⁶ - mobilized to change policies relating to access to essential drugs and became one of the factors leading to the adoption in November 2001 of the Doha Declaration on TRIPS and Public Health. That Declaration affirmed that the TRIPS Agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health.⁵⁷ The Jubilee 2000 campaign on debt relief provides another example of how successful civil society networks can shape policies relevant to globalization. The Jubilee 2000 campaign, launched in 1996, brought together trade unions, academics, doctors, religious groups, environmental organizations and grass-roots groups at the national and global levels to influence decision makers, international financial institutions and others by drawing attention to the

devastating effects of debt on development. The campaign contributed to the agreement by G-7 countries to improve debt relief, including through an expanded HIPC initiative, thus providing a means to help poorer States and poor people reduce a major obstacle to accessing the benefits offered by globalization.⁵⁸

42. The second form of participation concerns civil society organizations working together with other global actors to shape decisions and policies - in other words, contributing actively to decision-making rather than campaigning from the outside. Multi-stakeholder partnerships provide one means for global institutions to exchange information and promote dialogue with civil society and other actors such as the private sector. The World Bank now has more than 70 global programmes related to multi-stakeholder partnerships accounting for about \$1 billion a year (A/58/817, para. 73). Similarly, the World Summit on the Information Society is involving civil society organizations, along with Governments, the United Nations and the private sector, in a multi-stakeholder partnership to promote an information society for all - an objective holding great potential for the achievement of a more inclusive globalization.⁵⁹ The Secretary-General's Global Compact also provides a forum for global business leaders, trade unions and civil society to promote 10 principles related to corporate social responsibility, including 2 principles on human rights. Importantly, the tripartite system of the ILO welcomes the participation of workers' and employers' organizations in its decision-making process which supports participatory rights at the global level. The WTO dispute settlement mechanism has demonstrated greater willingness to accept amicus curiae briefs from groups that are not party to disputes. While a dispute panel is not obliged to take the contents of amicus briefs into account, their use could provide a means of strengthening civil society's participation in the multilateral trading system and prove valuable in achieving just and well-founded decisions.

43. Yet issues still remain, particularly in relation to the second form of civil society participation - active participation in global decision-making. In this regard, the *Human Development Report 2002* has stated that individuals and groups have few opportunities to influence, restrain or hold accountable Governments in their actions in international forums, nor can people rely on parliaments and politicians to hold international organizations accountable.⁶⁰ For example, in spite of some openings towards NGOs in its Ministerial Conferences,⁶¹ WTO remains a member-driven organization, with few other avenues for civil society to participate in its decision-making processes. Thus, while WTO deals in issues relevant to the enjoyment of the human rights of indigenous peoples, rural populations, workers, people living with HIV/AIDS and other diseases requiring essential medicines, people relying on access to essential services and so on, these people have no direct access to WTO meetings and decision-making processes. While Governments are clearly the primary duty bearers of human rights, consideration could be given to the ways in which States acting collectively through international organizations, including those most closely related to globalization, also hold responsibilities to respect human rights in their fields of activity. In this context, Governments could also examine ways of giving a voice to people affected by decisions taken in international institutions, including, ultimately, the possibility of developing mechanisms of redress.

44. In this context, it is important to highlight that increasing active participation of individuals and groups in decision-making is not a panacea and can also involve risks, and it is as relevant to consider accountability in the context of civil society groups as it is with global institutions. Significantly, introducing or strengthening civil society participation does not

necessarily mean that that engagement will be representative of diverse opinions. In particular, new technology has helped magnify not only the voice of legitimate and representative organizations, but also the views of anti-democratic, obscure and unrepresentative organizations with destructive aims.⁶² This in turn raises questions of the legitimacy of civil society organizations in comparison to elected Governments, and thus highlights the importance of ensuring that civil society organizations are sufficiently accountable, both to their membership and to the community more broadly, particularly the poorest and most marginalized (A/58/817, para. 161). The Commission might therefore consider ways of promoting a stronger and more effective civil society voice in global forums while at the same time ensuring greater public accountability of civil society.

45. Similarly, the exercise of participatory rights at the global level also brings stresses to international forums. The design of international forums - whether in the United Nations system or WTO - focuses principally on intergovernmental decision-making. Increasing the engagement of individuals and groups naturally burdens this structure, in particular by adding to already loaded work agendas and demands on global institutions and meeting facilities and potentially leading to endless meetings without conclusions (ibid., para. 23). This in turn could lead to stronger Governments turning away from global institutions to rely on other rule- and policy-setting means to achieve reform - such as bilateral and regional trade agreements or unilateral pressure - which might prove less open to participation.

46. These risks must be balanced - drawing on the principle of proportionality - against the opportunities offered by broader civil society participation that should make global forums more relevant, reduce the existing democratic deficit, increase public understanding and relevance of decisions taken, emphasize the social dimensions of globalization, enhance accountability at the global level and ultimately allow for progress towards more robust and sustainable rules and policies towards globalization. Fair negotiating processes are more likely than unfair ones to generate workable, sustainable outcomes. Moreover, decision-making should be open to public scrutiny, and decisions should reflect the interests of all stakeholders - with special attention to the poorest people and least developed countries.

III. CONCLUSIONS AND RECOMMENDATIONS

47. **The application of the fundamental principle of participation - or participatory rights - at the global level has come under closer scrutiny in the context of globalization. On the one hand, increases in information and communication technology have improved opportunities to participate in global decision-making and to understand the consequences flowing from global decisions. On the other hand, more and more decisions affecting people locally are being taken globally, yet democracy remains essentially national and decision-making structures at the global level have not always adapted at an adequate pace. These developments have highlighted the need for reform, including through the promotion of participatory rights in global decision-making.**

48. **The recent report of the Panel of Eminent Persons on United Nations-Civil Society Relations has underlined the relevance of participatory rights to democratic legitimacy within the United Nations. The context of globalization raises similar questions for those institutions most closely related to the phenomenon of globalization, in particular WTO,**

the IMF and the World Bank. This requires action both nationally and internationally. Nationally, there is a need to strengthen participation in national policy-setting in areas such as poverty reduction and trade reform. This would not only be a means of promoting wider enjoyment of participatory rights nationally, it could also help promote broader consensus on often controversial policies related to trade, finance and development. Internationally, there is a need to consider ways to strengthen the participation of poorer countries in decision-making processes. In particular, States, as primary duty bearers of human rights, need the capacity to voice the concerns of the poor in global forums if participation at the local level is to have value. Further, the need to enhance opportunities for direct participation of individuals and groups in the conduct of public international affairs also warrants attention in order to help adapt global institutions to the growing capacity of civil society and calls for greater global democracy. The following recommendations are offered as ways to integrate and effectively implement participatory rights in the debate on the process of globalization.

49. *Understanding the international dimensions of the right to take part in the conduct of public affairs.* The Human Rights Committee has acknowledged that the right to take part in the conduct of public affairs includes participation in public administration at the international and regional levels as well as the national and local levels, subject to reasonable and objective limitations. With a view to integrating participatory rights in the debate on globalization, the relevant bodies could consider the scope, nature and boundaries of article 25 of the ICCPR at the international and regional levels.

50. *Undertaking human rights impact assessments of globalization's rules, policies and projects.* States and other actors - including the private sector and international institutions - should undertake human rights impact assessments of trade and development rules, policies and projects, both during the process of policy and project formulation as well as after a period of implementation. Such assessments should be public and participatory, focus in particular on disadvantaged and vulnerable groups and highlight the differing impacts of projects and policies on men and women. Where relevant, States should raise the results of such assessments in appropriate trade and economic forums. Poorer States could consider seeking financial and technical assistance in undertaking human rights impact assessments.

51. *Strengthening the role of parliaments in global governance.* Parliaments can have an important role in ensuring accountability of Governments for their actions in international forums. States could consider ways to strengthen this role: (a) at the national level through the establishment of parliamentary committees that coordinate human rights impact assessments of globalization's rules and policies and review decisions of Governments taken in global forums; (b) at the international level, through the consideration of how global parliamentary networks, such as the IPU, could have an expanding role in ensuring coherence and consistency between global economic and social policies.

52. *Clarifying the human rights responsibilities of other actors.* While Governments are clearly the primary duty bearers of human rights, the Commission might consider the ways in which States acting collectively through international organizations, including those most closely related to globalization, also hold responsibilities to respect human rights in

their fields of activity. The Commission might also consider ways of promoting a stronger and more effective civil society voice in global forums while at the same time civil society groups might lead the way in promoting peer review to promote greater accountability.

53. *Increasing the voice of civil society in institutions related to globalization.*

Commission members and observers could, in their capacity as members of international financial institutions and WTO, examine ways to strengthen participation of civil society organizations in those institutions, taking into consideration the report “We the peoples: civil society, the United Nations and global governance” (A/58/817).

54. *Further study.* **The Commission might consider requesting the Office of the High Commissioner to develop methodologies for undertaking human rights impact assessments of trade and development rules, policies and projects.**

Notes

¹ “We the peoples: civil society, the United Nations and global governance”, report of the Panel of Eminent Persons on United Nations-Civil Society Relations (A/58/817 and Corr.1).

² United Nations Development Programme, *Human Development Report 2002: Deepening Democracy in a Fragmented World* (hereafter UNDP 2002), Oxford University Press, New York, 2002, p. 102.

³ São Paulo Consensus, United Nations Conference on Trade and Development, eleventh session, São Paulo, 13-18 June 2004 (TD/410), para. 17.

⁴ Article 21, UDHR states: “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives; Everyone has the right to equal access to public service in his country; The will of the people shall be the basis of the authority of governments; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

⁵ ICERD, article 5 states: “In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights ... (c) Political rights, in particular the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.”

⁶ Human Rights Committee, “The right to participate in public affairs, voting rights and the right of equal access to public service (article 25)”, General Comment No. 25 (1996) (hereafter GC 25), para. 5.

⁷ Committee on the Elimination of Discrimination against Women, “Article 7 (political and public life) and article 8 (international level)”, General Recommendation No. 23 (1997) (hereafter GR 23), para. 35.

⁸ Ibid., para. 39.

⁹ GC 25, paras. 8, 12 and 25.

¹⁰ Committee on Economic, Social and Cultural Rights, “The right to education (article 13)”, General Comment No. 13 (1999). See also GC 25, para. 12, which identifies illiteracy as an obstacle to the enjoyment of the right to vote.

¹¹ GC 25, paras. 6-8.

¹² GR 23, para. 26.

¹³ GC 25, para. 11.

¹⁴ GC 25, para. 12, and GR 23, para. 45.

¹⁵ GR 23, para. 15.

¹⁶ GC 25, para. 4.

¹⁷ GC 25, para. 11.

¹⁸ GC 25, para. 18.

¹⁹ *Mikmaq Tribal Society v. Canada*, communication No. 205/1986 (CCPR/C/43/D/205/1986), paras. 5-6.

²⁰ Charter of the United Nations, Article 1 (3); Universal Declaration of Human Rights, article 28.

²¹ UNDP, *Human Development Report 2004: Cultural Liberty in Today's Diverse World*, Oxford University Press, New York, 2004, p. 92.

²² UNCTAD, *Trade and Gender: Opportunities and Challenges for Developing Countries*, A. Tran-Nguyen and A. Beviglia Zampetti (eds.), United Nations, New York and Geneva, 2004.

²³ ILO, *A Fair Globalization - Creating opportunities for all*, report of the World Commission on the Social Dimension of Globalization, ILO, Geneva, 2004, p. 54.

²⁴ Ibid., p. 120.

²⁵ UNDP, “Participatory assessments: a mapping of methods”, drafted by Upala Devi Banerjee for HURIST, New York, June 2004.

²⁶ Each PRSP should outline the participatory process adopted, including a description of the format, frequency, and location of consultations, a summary of the main issues raised and the views of participants, an account of the impact of the consultations on the design of the strategy and a discussion of the role of civil society in future monitoring and implementation.

Source: <http://www.worldbank.org/poverty/strategies>.

²⁷ UNDP 2002, *op. cit.*, pp. 108 ff.

²⁸ Available on the OHCHR web site <http://www.ohchr.org> (accessed 29 November 2004).

²⁹ UNCTAD, *Economic Development in Africa: From Adjustment to Poverty Reduction: What is New?* United Nations Publication, Sales No. E.02.II.D.18, p. 6.

³⁰ See, e.g., social assessment, stakeholder analysis, participatory rural appraisal, participatory monitoring and evaluation, beneficiary assessment and SARAR (Self-esteem, Associative strength, Resourcefulness, Action planning, Responsibility) discussed in: World Bank, *Participation and Social Assessment: Tools and Techniques*, compiled by Jennifer Rietbergen-McCracken and Deepa Narayan, World Bank, Washington, DC, 1998. These methodologies share many core techniques including conversational and semi-structured interviews, focus group interviews, participant observation, thematic mapping, institutional diagramming, and techniques encouraging participants to gather and analyse information concerning issues related to their livelihoods.

³¹ See, e.g., Norwegian Agency for Development Cooperation (NORAD), *Handbook in Human Rights Assessment: State Obligations, Awareness and Empowerment*, NORAD, Oslo, 2001.

³² See, e.g., D. Ddamilura and Halima Noor Abdi, "Civil society and the WTO: Participation in national trade policy design in Uganda and Kenya", CAFOD, London, August 2003; or Department of Foreign Affairs and International Trade, Canada, <http://www.dfait-maeci.gc.ca/tna-nac/consult-en.asp#Cur> (30 August 2004).

³³ ILO, *op. cit.*, p. 78.

³⁴ Information provided by ILO in the consultation process for the present report. The countries include Argentina, Bangladesh, Ghana, Morocco, Panama and the United Republic of Tanzania.

³⁵ ILO, *op. cit.*, pp. 120-121.

³⁶ UNDP 2002, *op. cit.*, p. 116.

³⁷ M. Novak, *UN Covenant on Civil and Political Rights: CCPR Commentary*, N.P. Engel, Kehl, Germany, 1993, p. 455.

³⁸ See, e.g., NORAD, *op. cit.*

³⁹ UNDP, “Participatory assessments: a mapping of methods”, op. cit., p. 8. Ddamilura and Abdi, op. cit., p. 1, suggest a positive relationship between civil society groups working together and their impact on government policy.

⁴⁰ UNDP 2002, op. cit., p. 113; ILO, op. cit., pp. 76-77.

⁴¹ The seven countries are the United States, Japan, France, the United Kingdom, Saudi Arabia, China and the Russian Federation. See UNDP 2002, op. cit., p. 113.

⁴² Ibid.

⁴³ ILO, op. cit., p. 77.

⁴⁴ UNDP, Heinrich Boll Foundation, Rockefeller Brothers Fund, Rockefeller Foundation and Wallace Global Fund, *Making Global Trade Work for People*, 2003, p. 88. UNDP notes on its web site that “*The responsibility for opinions in this book rests solely with its authors. Publication does not constitute an endorsement by the United Nations Development Programme or the institutions of the United Nations system or the Heinrich Boll Foundation, Rockefeller Brothers Fund, Rockefeller Foundation, or Wallace Global Fund.*”

⁴⁵ ILO, op. cit., p. 77.

⁴⁶ WTO, *Annual Report 2003*, Geneva, 2003, p. 68.

⁴⁷ WTO, *Annual Report 2004*, Geneva, 2004, p. 14.

⁴⁸ Ibid., p. 77.

⁴⁹ Ibid., p. 78.

⁵⁰ UNDP et al., *Making Global Trade Work for People*, op. cit., p. 88.

⁵¹ ILO, op. cit., p. 78.

⁵² WTO, *Annual Report 2004*, op. cit., pp. 2, 6 and 7.

⁵³ See, e.g., http://www.acwl.ch/e/index_e.aspx (accessed 8 November 2004).

⁵⁴ ILO, op. cit., pp. 88 ff.

⁵⁵ Ibid., p. 85.

⁵⁶ UNDP 2002, op. cit., p. 106. For instance, an Internet petition which received 250,000 signatures played a significant role in changing policies among commercial pharmaceutical interests.

⁵⁷ Ibid., pp. 104-105. Also, Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), para. 4. The Essential Drugs Campaign arose as a result of civil society concern about the impact that the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) could have on prices and access to essential medicines.

⁵⁸ UNDP 2002, *ibid.*, pp. 103-104.

⁵⁹ See <http://www.itu.int/wsis/basic/why.html> (accessed 26 August 2004).

⁶⁰ UNDP 2002, *op. cit.*, p. 113.

⁶¹ WTO members have adopted guidelines on the participation of selected NGOs in WTO Ministerial Conferences and the WTO secretariat holds an NGO symposium annually on specific issues relevant to civil society - see http://www.wto.org/english/forums_e/ngo_e/intro_e.htm (accessed 26 August 2004). For further information, see, e.g., WTO, *Annual Report 2004*, *op. cit.*, pp. 75-77.

⁶² UNDP 2002, *op. cit.*, p. 112.
